



**ADA Self  
Evaluation/Transition  
Plan  
Public Comments &  
Response  
May 2004**

**Kansas State Fair Ground**



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FAIR GRANDSTAND 2001**



**Living Independently in Northwest Kansas**

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April 26, 2004

Anthony Fadale  
Kansas ADA Coordinator  
Department of Administration  
Landon State Office Building  
Room 122a-South  
900 S.W. Jackson  
Topeka, Kansas 66612-1214

RE: Comments on ADA Self Evaluation and Transition Plan for the Kansas State Fairgrounds.

Dear Anthony:

Thank you for allowing me to submit these comments after April 1, 2004. I am not going to address the details of this self-evaluation and transition plan because Jeff Farney has already done that and I agree with him. I also agree, that the contract for this work was given to ADA, Inc. a consulting firm from Pennsylvania when there are several highly qualified organizations and individuals right here in Kansas where our tax dollars should have been spent. Was this job advertised and let out for bid or did the Kansas State Attorney General's office have the legal right to simply choose anyone?

Furthermore, in my view ADA, Inc. is not competent and should be made to at least earn the \$43,000.00 that was paid them by correcting the errors and omissions in their report. I am profoundly disappointed in the process and angered by the result.

Sincerely,

Rick Knight  
LINK, Inc.

cc/ Kathleen Sebelius, Kansas State Governor  
Kirk Lowry, Kansas Advocacy and Protective Service



LINK, Inc. also has offices in Hays, Hill City, Osborne and Great Bend



## KANSAS ADVOCACY & PROTECTIVE SERVICES

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February 18, 2004

Kansas Advocacy & Protective Services (KAPS) is a public interest legal advocacy agency, part of a national network of federally mandated and funded organizations legally empowered to advocate for Kansans with disabilities. As such, KAPS is the officially designated protection and advocacy organization for Kansans with disabilities. KAPS is a private, 501(c)(3) nonprofit corporation, independent of both state government and disability service providers.

The State Fair should make all of their programs, services, activities, and facilities readily accessible and useable to individuals with disabilities. The ADA requires meaningful access to programs and services.

The ADA self-evaluation and transition plan cannot be commented on in isolation. As the Tenth Circuit Court of Appeals noted, “the Fair should have performed its self-evaluation and transition plan over ten years ago.” *Chaffin v. State Fair*, 348 F.3d 850 at 865 (10<sup>th</sup> Cir. 2003). The State Fair’s past conduct and arguments in *Chaffin v. Kansas State Fair Board* is shameful. The State Fair argued that it was immune from suits, that the regulations and ADAAG were not enforceable by the plaintiffs, that they complied with the ADA because the plaintiffs were able to get on the fairgrounds, and finally that the claims were moot because they were making some changes. These arguments were all soundly defeated by Judge Marten, the United States District Judge and the Tenth Circuit Court of Appeals. The Tenth Circuit Court of Appeals even characterized the State Fair’s conduct as a continuing practice of violating the ADA. The State Fair has

lost its arguments. The Courts have found that the State Fair, as a whole, is not readily accessible to and useable by individuals with disabilities. All of the programs, services, and activities of the state fair must be readily accessible to individuals with disabilities. The State Fair does not have to make all of its facilities that were constructed prior to 1992 accessible. But if the Fair chooses to provide programs, services, and activities to the public, it must do so in accessible facilities.

Isolation and segregation are forms of discrimination prohibited by the ADA. A good test of meaningful access is to substitute race for disability. It is not acceptable to segregate people of color in certain section of the Grandstand. It is not acceptable to have concession stands for whites only. It is not acceptable to have restrooms that people of color cannot use. Nor is it acceptable for the State Fair to offer shows in the Grandstand, concession stands, parking, or bathrooms that are not readily accessible to people with disabilities. Isolation and segregation is wrong and illegal for race and it is just as wrong for disability.

The Tenth Circuit Court of Appeals accepted the standard of access for the State Fair that was proposed by the State Fair: “whether the Fairgrounds, when viewed in their entirety, are readily accessible to and usable by individuals with disabilities.” *Chaffin v. State Fair*, 348 F.3d 850 at 860 (10<sup>th</sup> Cir. 2003). This much more lenient standard “looks at the accessibility of the facilities as a whole, not at the individual elements.” “However, even under the less stringent program accessibility standard, the facilities as a whole must be ‘*readily* accessible.’” (Emphasis added by the Tenth Circuit Court). The Court held that the “individual elements that are not accessible add up to the “wholesale exclusion” of disabled individuals. *Chaffin*, 348 F.3d at 861.

“The Fair has shown by its failure to accommodate disabled individuals . . . that no methods are effective in achieving program accessibility other than making

structural changes. . . Because the Fair must make these alterations to its existing facility, it must comply with the accessibility requirements stated in 28 C.F.R. § 35.151. As noted above, § 35.151 requires that the public entity, in making alterations to existing facilities, comply with . . . ADAAG.” *Chaffin*, 348 F.3d at 861. Therefore, if the State Fair chooses to use an inaccessible facility to provide a program, service, or activity to the public, it must make that facility comply with ADAAG. The Self-evaluation looks at the individual elements in isolation; exactly the opposite of what the State Fair was arguing was the standard. The State Fair argued successfully to the courts that the standard should be to look at the State Fair facility as a whole. The Courts have found that the State Fair as a whole is not readily accessible and ruled that the Fair must bring its individual elements into compliance with ADAAG in order to make the facilities as a whole readily accessible.

### **Grandstand**

The self-evaluation states that only the altered portions of the Grandstand should comply with ADAAG. The State Fair offers programs and uses the Grandstand. The entire Grandstand should comply with ADAAG. The Tenth Circuit found that people with disabilities were “effectively trapped in a handicapped section.” Isolation and segregation are discrimination. Limiting access to the Grandstand to an isolated and segregated section of the Grandstand is discrimination. The State would not limit people of color, women, or the elderly to a certain section of the Grandstand. It is morally wrong and discriminatory to do so to people with disabilities. People with disabilities should have equal access to the Grandstand, vertical dispersion, and accessible lines of sight.

### **Parking**

The parking facilities should comply with ADAAG. The parking facilities should be fully accessible and comply with ADAAG.

## Conclusion

KAPS has not gone through every page of the self-evaluation and transition plan. The State Fair has taken positions in court that are both morally and legally wrong, and they have lost. The State Fair, when viewed in its entirety, is not readily accessible. The Courts have ordered that the State Fair make its programs, services, and activities accessible to people with disabilities by bringing its facilities into compliance with ADAAG. The self-evaluation and transition plan should follow the Court's order and not try this case again in the self-evaluation plan.

Sincerely,

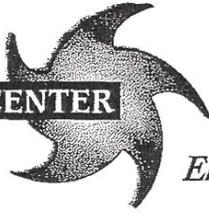


Kirk W. Lowry

# Independent Living

**RESOURCE CENTER**

Judy Weigel,  
Executive Director



*Empowering people with disabilities since 1984*

Denny Stoecklein  
Kansas State Fair  
2000 N. Poplar  
Hutchinson, KS 67502

March 8, 2004

Dear Mr. Stoecklein,

We are a nonprofit organization established to help empower people with disabilities to lead independent lives. We provide advocacy services, community education and direct services for persons with disabilities in south central Kansas.

ILRC appreciates the progress Kansas State Fair officials have made in addressing accessibility issues for persons with disabilities. However, we are concerned that the ADA Self Evaluation/Transition Plan dated January 2004 does not adequately address all issues to ensure persons with disabilities have reasonable access to state fair activities.

We are confident that state fair officials sincerely desire to fully comply with ADA guidelines. Persons with disabilities, like anyone else, should be afforded full access to state fair activities. This courtesy requires more than meeting minimum requirements. Unfortunately the current plan only provides minimum compliance in many areas.

- **Restrooms:** Only restrooms near seating areas are to be made accessible. Persons with disabilities should be able to use the restroom at any restroom site on the fair grounds.
- **Parking:** Approximately two percent of parking spaces are to be made accessible. This is disproportionate to the approximately 16 percent of Kansans who are disabled according to the 2000 state census. Accessible parking should more closely represent this ratio. Also, we believe all accessible parking spaces should be made in the "universal" design to accommodate van accessibility.
- **Rides & Amusements:** Midway and amusement rides are customer service programs provided to the public that have not been addressed in the transition plan. This is a major ADA compliance issue. We realize that some rides cannot be made accessible for a variety of reasons. However, many can and should be made accessible by creating appropriate modifications for mobility impairments. Many games of skill should be made accessible by lowering counters, expanding entrances, creating firm and stable flooring, etc.
- **Paths Of Travel:** All routes throughout the fairgrounds should be made accessible by removing barriers or ensuring they are ramped, beveled, or made cane detectible.
- **Seating:** Approximately one percent will be made accessible. We recommend reserving approximately four or five percent for accessible seating allowing for more than one companion seat per wheelchair seat. An example of this type of seating is at Wichita's Lawrence Dumont Stadium where seats are easily removed and companion seats are plentiful.

Persons with disabilities look forward to a more accessible and enjoyable experience at the Kansas State Fair. We respectfully request a reply to this letter with your thoughts concerning further efforts to address these issues.

Sincerely,

Judy Weigel  
Executive Director

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MAR 09 2004

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201 N Saint Francis St \* Wichita, KS 67202

February 18, 2004

Mr. Anthony Fadale  
ADA Coordinator for the State of Kansas

Re: comments on ADA Self Evaluation and Transition Plan for the Kansas State Fair

Dear Mr. Fadale;

Thank you for this opportunity to provide comments on the recently completed ADA Self Evaluation and Transition Plan for the Kansas State Fair. Please share these comments with the Attorney General's office as well. Topeka Independent Living Resource Center has concerns with the way this has developed. While more was revealed about the process used to hire ADA, Inc. Tuesday at the comment session in Hutchinson, we still have concerns about the decision to use an out of state consultant for this service. Particularly given the economic difficulties faced here at home. The state of Kansas has overlooked expertise within our home state and chosen instead to spend our tax dollars elsewhere.

Harry listed numerous reasons as to why ADA, Inc. was chosen for the project. It was said that they felt ADA, Inc. offered the most comprehensive services and has had experience with numerous agencies / entities and ADA, Inc. has staff certified by different code groups. It was also mentioned that they were looking for an unbiased organization to perform the project.

Regardless of a persons training and or certification with building codes, while ADAAG has building code type references, it is not a building code but rather a civil rights law. I have personally reviewed ADA, Inc.'s "ADA Compliance Summary". Is it possible that there are qualified individuals, agencies or organizations in Kansas that could have performed such a report? YES. Could those Kansas groups have completed the project for \$43,000 or less? YES. Would those Kansas groups have presented the report with as much or more detail? ABSOLUTELY. The problem with all of those scenarios is that of them were even looked into. A lot was made about ADA, Inc.'s experience. There are numerous organizations including our own that provide such expertise. Given that fact, the state of Kansas still chose to go outside and possibly pay more for a product that we feel could have been provided by Kansas's. After reviewing the document I feel it safe to say that a Kansas organization could have also provided a more accurate plan as well.

We believe the State's Attorney General's office has underestimated resources available in Kansas. As for hiring an unbiased organization, most agencies in Kansas qualified to perform such a project, have no ties with the plaintiffs, attorney or State Fair in this case. That is what these organizations do for a living, consult / educate the public and private sector on civil and

human rights laws. As with any profession, whether it be attorneys, consultants, etc., everyone has a bias. The true professionals consult on the legal requirements and then offer recommendations based on other experiences / knowledge.

I found numerous inconsistencies within the Self Evaluation report and Transition Plan. I have detailed most of those issues below.

On page five of the executive summary, ADA, Inc. states that ADAAG does not mandate any particular solutions when addressing what constitutes as a pedestrian walkway, however, we would like to point out that 35.150 (d)(2) states "If a public entity has responsibility or authority over streets, roads, or walkways, its transition plan shall include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the Act, including State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas". Note that the underline was added.

There is a great deal of discussion about the positioning of the power assisted door controls, however, at no point in the report is there discussion about the opening force or force required to stop movement on the power assisted doors. If these doors are all exterior hinged doors, the requirements are exempt or "reserved". Many of the entrance doors that are non-compliant have completion dates of 2005 to 2007. There are such items as oven / stove hardware that is scheduled for a 2004 completion date. Since on site parking is relegated to a different location, entrance doors should be a priority as required in 28 CFR Part 36, section 36.304 (c)(1).

It is noted in numerous places that clothes hooks in restrooms will be eliminated. It is hard to distinguish from the report exactly where those clothes hooks are currently located. I can tell you from personal experience that grabbing a properly mounted clothes hook on the inside of toilet stall door is often times the only way I'm able to close a stall door when using the lock mechanism concurrently. I can't imagine that I'm the only individual who struggles with this item.

In the Programmatic Review, ADA, Inc. addresses the Fair's policy for the sale of wheelchair seating, however, it does not address the policy on allowing restricted number of companion seats per wheelchair seat. Many times, venues like to restrict the number of tickets one can purchase to one wheelchair accessible seat with one companion seat and does not take into account a family of three or more. This in and of itself segregates people with disabilities by placing special terms and conditions on them that aren't required from that of the general public. This issue is something that should have been addressed in the report.

#### **HEIGHTS:**

ADA, Inc. references ADAAG required heights on many different fixtures. Such fixtures include but are not limited to: mirrors, room signage, grab bars, toilets, urinals, sinks, drinking fountains, etc. What this report fails to include is one simple phrase. All of these fixtures are to be measured at a height above "the finished floor". This phrase is imperative because contractors will often times mount fixtures before the flooring has been laid. What started out as a compliant mount ends up non compliant due to an unaccounted for floor addition.

**PARKING:**

We printed out the information provided on-line and are concerned that there seems to be no master plan for accessible public parking. There is also no mention of this in ADA, Inc.'s "Executive Summary".

**ADMINISTRATION BUILDING:**

Page 13 refers to the exterior running slope exceeding 1:20 (8.8%) and suggests the grade be modified but there is no mention of the length of the non-compliant slope. Since 4.3.7 requires that an accessible route that exceeds 1:20 be to be considered a ramp, it is possible that handrails could be added to both sides (see 4.8.5) to remedy the slope difference.

Page 15 refers to the First Aid entrance having a threshold of  $\frac{3}{4}$ " being compliant by 4.13.8. When referring to  $\frac{3}{4}$ " thresholds, 4.13.8 is referencing exterior sliding doors only. 4.1.6 (k)(3)(d)(ii) allows existing thresholds of  $\frac{3}{4}$ " high or less to remain if they have (or modified to have) a beveled edge on each side.

Page 17 references 5.2 for counter heights. This should actually be 7.2, not 5.2.

Page 18 suggests that urinal controls should have a min. height of 19" and references 4.18.4. There is no reference to a 19" minimum for flush controls under 4.18.4. We would recommend the forward reach range (4.2.5) minimum for this issue, which is 15".

**AGRICULTURAL EDUCATION EXHIBIT BUILDING:**

Page 29 states, "*the running slope of the ramp is greater than 1:20*". 4.8.2 specifies the maximum slope for a ramp run be 1:12.

**BEEF ARENA:**

Page 33 suggests that the stair handrail should comply with 4.9. It should be noted that the handrail should additionally comply with 4.26.

Page 38 states that ADA, Inc. doesn't believe that the 66" high clothes hook cannot meet the maximum reach requirements. They have provided no rationale for their opinion.

**BOY SCOUTS BUILDING:**

Page 44 again suggests that urinal controls should have a min. height of 19" and references 4.18.4. There is no reference to a 19" minimum for flush controls under 4.18.4. We would recommend the forward reach range (4.2.5) minimum for this fixture, which is 15".

**COTTONWOOD COURT:**

Note: the report does not list any restroom specs with regards to toilet height/placement/flush control; clear floor space, grab bars and sink(s). It is hard to surmise compliance without those specifications.

Page 50 states that the urinal shield extends beyond the rim of the urinal and ADA, Inc. recommends that the shields length be modified. The DOA states however, it feels that the shield is acceptable and no changes will be made. The report does not include the inside width between shields. 4.18.3 states "A clear floor space 30 in by 48 in (760 mm by 1220 mm) shall be provided in front of urinals to allow forward approach. Urinal shields that do not extend beyond the front edge of the urinal rim may be provided with 29 in (735 mm) clearance between them."

#### **DODGE STAGE:**

Page 55 refers to the picnic table area. ADA, Inc. states "no modifications are being recommended, there are no ADAAG standards for outdoor recreational areas such as the picnic area". We disagree with their opinion. We would argue that the picnic area is a place of public accommodation and the fair has an obligation to make this function of the fair accessible. 4.1.3 (18) states "If fixed or built-in seating or tables (including, but not limited to, study carrels and student laboratory stations), are provided in accessible public or common use areas, at least five percent (5%), but not less than one, of the fixed or built-in seating areas or tables shall comply with 4.32. An accessible route shall lead to and through such fixed or built-in seating areas, or tables" (underline added).

The picnic tables in this area should comply with 4.1.3 (18) and 4.32

#### **DOMESTIC ARTS BUILDING:**

Page 58 refers to the kitchen area. The report recommends that the stove have front mounted controls, however, there is no mention of the location of the controls on the oven except to recommend that they be installed within the 48" and 54" reach range.

#### **ENCAMPMENT BUILDING:**

Pages 66, 67, 71 and 72 refer to restrooms. The report does not list any restroom specs with regards to toilet height/placement/flush control; clear floor space, grab bars and sink(s). It is hard to surmise compliance without those specifications.

Pages 69 and 70 refer to transfer showers. The report lists them as 35 1/2" wide but do not list depth.

#### **FARM BUREAU ARENA:**

Page 77 refers to entrances having a threshold of 3/4" being compliant by 4.13.8. When referring to 3/4" thresholds, 4.13.8 is referencing exterior sliding doors only. 4.1.6 (k)(3)(d)(ii) allows existing thresholds of 3/4" high or less to remain if they have (or modified to have) a beveled edge on each side.

#### **GIRL SCOUTS BUILDING:**

Pages 84 and 85 refer to restrooms. The report does not list any restroom specs with regards to toilet height/placement/flush control, clear floor space and grab bars. It is hard to surmise compliance without those specifications

**MEADOWLARK BUILDING:**

Pages 124 through 126 refers to restrooms. The report does not list any restroom specs with regards to toilet height/placement/flush control, clear floor space and grab bars. It is hard to surmise compliance without those specifications.

**MORTON BUILDING:**

We have the same questions as referenced under the Meadowlark building.

**RESTROOM AT FT. LEAVENWORTH BLDG.:**

Page 141 refers the exterior ramp slope exceeds 1:12, however, there is no mention of landings at the top and bottom of the run and the overall rise of the ramp. The maximum rise for any ramp run is 30 inches (4.8.2)

There are also no toilet heights given for the men's / women's restrooms.

**PUBLIC RESTROOMS:**

Pages 130 – 158 list numerous public restrooms. In many instances, toilet spec's are omitted from the report.

**SUNFLOWER BUILDING:**

Pages 160-166 refer to restrooms. The report does not list any restroom specs with regards to toilet height/placement/flush control, clear floor space and grab bars. It is hard to surmise compliance without those specifications.

**VARIOUS BUILDINGS:**

Pages 185 and 186 refer to restrooms. The report does not list any restroom specs with regards to toilet height/placement/flush control, clear floor space and grab bars. It is hard to surmise compliance without those specifications.

The shower area's omit dimensions and clear floor space.

**TECH SPEC'S REFERENCE GUIDE:**

Page 28 refers to sink depth and quotes 2.24.4. The reference used should actually be 4.24.4

Page 30 has an accessible parking table chart. This chart is misleading because it is referring to "total parking spaces in lot" and then the "required minimum number of van accessible spaces". According to ADA, Inc.'s chart, a parking lot with 45 total spaces should have 6 van accessible spaces. This is incorrect. The chart should have worded it as "total accessible parking spaces in lot" and then it would have been correct.

Pages 49, 55 and 78 refer to grab bars in toilet stalls and showers. It lists the height requirements being 34"-38" and further recommends a 33"-35" because "it is a more comfortable height".

First of all, the height of 34" – 38" is incorrect. This should be 33"-36" max., see 4.17.6, 4.23 and figures 30(d), 34 and 37. Secondly, their recommendation height "for comfort" isn't even within the miss-referenced height.

#### **GRANDSTAND AND NON GRANDSTAND BLEACHER SEATING:**

We disagree with ADA, Inc.'s professional opinion in regards to vertically dispersed seating. We would argue that the Fair has chosen these sights to offer a service to the public. Given that, we believe 28 CFR Part 35.35.130 (4)(ii) applies:

(4) A public entity may not, in determining the site or location of a facility, make selections –

(ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the service, program, or activity with respect to individuals with disabilities.

There is no denying that the Grandstand's sole service is based around programs that require the patron to view an event. Not having dispersed seating that offers lines of sight comparable to those of the general public, substantially impairs the objective of this service for persons with disabilities. Furthermore, there is very little discussion in ADA, Inc.'s report on providing "lines of sight comparable to those of the general public" as required by 4.33.3. This section (4.33.3) should be followed for viewing and location for the Grandstand and area's that have bleacher seating. This important issue should have been addressed.

Should you have questions or comments, please feel free to contact me.

Sincerely,



Jeff Farney  
Independent Living Advocate  
[jfarney@tilrc.org](mailto:jfarney@tilrc.org)

Cc: Kansas State Fair Board of Directors  
Karen Jones, TILRC South Director of Advocacy  
David Calvert, Attorney

## Comments Submitted By David P. Calvert

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February 17, 2004

These written comments are submitted in my capacity as a patron of the Kansas State Fair, a person with a disability who uses a wheelchair for mobility, and as a person intimately familiar with the ADA deficiencies at the Fair in my capacity as counsel for Mandy Chaffin, Tiffany Nickel, and Cecil Stinbrink in the litigation which mandated the *January 2004 ADA Self Evaluation/Transition Plan*. I will refer to that document as the report.

### THE ONLINE REPORT IS NOT THE FULL REPORT

The report that was published online at <http://da.state.ks.us/ada.pdf> is incomplete. The report contains references to approximately 75 photographs which apparently are part of the Compliance Recommendations of ADA, Inc. Those photographs have not been posted online nor have they been provided to me. It is impossible to fully evaluate the report until the entire report is made available to the public.

There is apparently a *2003 Commercial Exhibitor Manual* that needs changes. A copy of that Manual is not online and it has not been provided. The report also references policies and procedures that are not online and have not been provided.

I am somewhat concerned with a statement by Anthony Fadale as reported in yesterday's Wichita Eagle. According to the paper, Mr. Fadale says that the report serves as the state's proposal for how it will solve the ADA problems. As will be seen by my comments and, no doubt, by the comments of others, the report is incomplete and incorrect in many respects, although it is detailed, thorough and correct in others. By no means should this report be considered as a final proposal by the state fair. Even according to the report, there are many problems not addressed by the proposed transition plan and, indeed, some life safety problems are even created by the Grandstand plan.

Finally, the report provided online cannot be opened by some persons and even when it is opened, there are some sections and pages that are out of order.

### PARKING

#### **Need for Universal Parking Spaces**

The report contains no evaluation of the parking at the Kansas State Fair. Although significant improvements have been made, the attitude of the fair seems to be that it must only do that which is minimally required by ADAAG. Perhaps the best example of this attitude is found in the parking that is provided.

The first exposure persons with disabilities will have to the Fair is its parking facilities. The Fair has provided the bare minimum in the way of parking space with little regard to the actual number of persons with handicapped parking permits who attend the fair, the number of persons who drive lift- or ramp-equipped vans, and enforcement of the parking regulations concerning accessible parking. Perhaps a perfect example of this occurred when I attended the fair on Thursday in 2003. I arrived at about 10:00 a.m. on a rainy day with the temperature in the high 50's or low 60's. I was fortunate enough to find the last van-accessible space and noted that the accessible parking to the east of the fair was almost completely full.

When I returned to my van in the afternoon, I discovered that a pickup truck had parked in the 8' access aisle adjacent to my van despite the presence of a parking lot attendant who had been working within 50' of the van. The truck parked in such a manner as to completely prevent me from opening the right-hand door of the van to lower the ramp. (ADAAG notes that although 17' is required for parking and van lift or ramp access, a 16' space is required.)



The Fair has an obligation to maintain its accessible features, but the parking lot attendant allowed the truck to park in the access aisle. Had I not been lucky enough to have someone with me who could drive my van forward to allow the ramp to go down, I would have had no choice but to flag down another patron to drive the van out.

Despite requests to utilize Universal Parking, the Fair has refused to do so. ADAAG A4.6.3 reads as follows:

#### **A4.6.3 Parking Spaces**

The increasing use of vans with side-mounted lifts or ramps by persons with disabilities has necessitated some revisions in specifications for parking spaces and adjacent access aisles. The typical accessible parking space is 96 in (2440 mm) wide with an adjacent 60 in (1525 mm) access aisle. However, this aisle does not permit lifts or ramps to be deployed and still leave room for a person using a wheelchair or other mobility aid to exit the lift platform or ramp. In tests conducted with actual lift/van/wheelchair combinations, (under a Board-sponsored Accessible Parking and Loading Zones Project) researchers found that a space and aisle totaling almost 204 in (5180 mm) [17 feet] wide was needed to deploy a lift and exit conveniently. The "van accessible" parking space required by these guidelines provides a 96 in (2440 mm) wide space with a 96 in (2440 mm) adjacent access aisle which is just wide enough to maneuver and exit from a side mounted lift. If a 96 in (2440 mm) access aisle is placed between two spaces, two "van accessible" spaces are created. Alternatively, if the wide access aisle is provided at the end of a row (an area often unused), it may be possible to provide the wide access aisle without additional space (see Fig. A5(a)).Image

A sign is needed to alert van users to the presence of the wider aisle, but the space is not intended to be restricted only to vans.

**"Universal" Parking Space Design.** *An alternative to the provision of a percentage of spaces with a wide aisle, and the associated need to include additional signage, is the use of what has been called the "universal" parking*

*space design.* Under this design, all accessible spaces are 132 in (3350 mm) wide with a 60 in (1525 mm) access aisle (see Fig. A5(b))Image. One advantage to this design is that no additional signage is needed because all spaces can accommodate a van with a side-mounted lift or ramp. Also, there is no competition between cars and vans for spaces since all spaces can accommodate either. Furthermore, the wider space permits vehicles to park to one side or the other within the 132 in (3350 mm) space to allow persons to exit and enter the vehicle on either the driver or passenger side, although, in some cases, this would require exiting or entering without a marked access aisle.

Another big advantage to the Universal Parking Space is that vehicles are discouraged from parking in the access aisle because it is only 5' wide as opposed to a "van accessible" access aisle which is 8' wide. Most vehicles will not attempt to park in a marked access aisle that is narrower than the vehicle.

Since "van accessible" spaces are not reserved for vans, automobiles will also park in them without realizing the need for the wider access aisle for vans. I was guilty of this when I drove an automobile, and have only become sensitive to the problem since I started driving a van.

***SUMMARY: Persons with disabilities who drive vans should not have to depend on someone else to make sure they can get into their vans when they leave. They should be able to use any of the accessible parking spaces.***

### **Need for More Accessible Parking Spaces**

The ADA requires one accessible parking space for each 25 spaces for the first 100 and then 1 for each 50 thereafter. Only one in eight spaces needs to be "van accessible." These requirements translate to a requirement that approximately 2% of all parking spaces must be accessible.

However, it should be clear to everyone at the Fair that there are not enough accessible parking spaces to accommodate the number of persons with disabilities that attend the fair. For the Fair Board to simply take the position that it is in compliance with the ADA without regard to the "real world" does not show a commitment to make the fair as accessible as possible.

A check with the motor vehicle department reveals that substantially more than 2% of the vehicles on the road in Kansas are driven by persons with disabilities. Since 1999 there have been 193,728 handicapped parking placards issued and 29,550 handicapped license tags for a total of 223,278 for the entire state of Kansas. There are 1.8 million licensed drivers in Kansas and 2.5 million registered vehicles. Perhaps as many as 12.3% of the drivers in Kansas are persons with disabilities. Even if this number is inflated by a factor of 2, that means that there are only 1/3 as many accessible parking spaces as are necessary to accommodate fair patrons.

***SUMMARY: Many fairgoers with disabilities are not able to use the accessible parking spaces because there are not enough of them.***

### **GRANDSTAND**

## The Report Does Not Comply With The Court Order

ADA, Inc. opines that the fair is not required to provide vertically dispersed seating. That, however, is not relevant since the United States District Court and the United States 10<sup>th</sup> Circuit Court of Appeals have both ordered the Fair to include vertically dispersed seating in the plan. Although addressed more completely elsewhere in these comments, I note that **Judge Marten found that it was an uncontested fact that the “upper level seating at the grandstand is not wheelchair accessible.”** The report merely rubber-stamps the Fair’s position that it does not have to make the upper seating accessible and ignores the Court’s directive that the report should address this. Merely stating that the District Court and the 10th Circuit are wrong is not “addressing” the problem.

## The Report Criticizes of the Proposed Alterations

The following criticisms of the proposed Grandstand plan are found in the report. While I agree with the suggestions and recommendations, I have repeated them here to demonstrate the inadequacies of the proposed Grandstand plan but suggest that these recommendations are valid only for the lower level wheelchair seating. See my remarks elsewhere concerning vertically dispersed seating.

### *Lack of Accessible Route Between Wheelchair Seating Levels*

ADA, Inc., criticized the proposed alteration of the Grandstand because of life safety and fire deficiencies. While approving the wheelchair seating, the report notes that there is no accessible route between wheelchair seating levels. This accentuates the segregation of the wheelchair seating area and continues the Fair’s philosophy of clustering patrons who use wheelchairs. Philosophically, it is no better than the “wheelchair corral” that existed when the litigation was commenced in which all patrons were placed in one area, lifted onto risers by security personnel, and trapped in place until the conclusion of the concert.

### *Box Seats*

Again, while approving the plans, the report notes that there is no wheelchair seating in the box seats and notes that ADAAG requires it. It is also noted that patrons in wheelchairs will have line-of-sight interference from persons walking in front of them, and observes that this does not meet the requirements imposed by the court. ADA, Inc. *strongly* recommends a redesign of this area.

### *Emergency and Safety Issues*

Although ADA Inc. disclaims expertise on fire and life safety issues, the report notes that the bleacher seating areas deploy the able-bodied patrons into the accessible seating area, limiting the ability of wheelchair users to escape in case of emergency. They recommend that two stairways be converted to ramps to facilitate egress for persons with disabilities.

### *Travel Distance*

Although ADA, Inc. contends travel distance is not an ADA compliance issues, I believe that it is. Ramps are proposed only at either end of the Grandstand. Access is to be provided in the most integrated setting possible, and that includes ingress and egress to seating areas.

Travel of 1/8 mile to go to the restroom is not equal access. Nonetheless, the report recommends the addition of two ramps to eliminate this problem.

### *Path of Travel*

Lines of sight for persons using wheelchairs will be interfered with if the proposed plan is adopted. As the report notes, able-bodied persons will be required to walk in front of the wheelchair seating. "Under normal operating conditions, this will probably cause *tremendous* and *continuous* sight interferences for the wheelchair patrons and their companions when viewing events." The report suggests shifting the location of the wheelchair spaces.

### *Companion Seats*

The report notes that the companion seats proposed are only 18" wide which is smaller than conventional adult seats (19' - 21" wide) and recommends that conventional adult seats be utilized. Other comments about companion seating are found elsewhere in my comments.

***SUMMARY: People with disabilities who attend Grandstand events should not be put at risk by clustering all of the wheelchair spaces without a means of escape.***

### **The Courts Have Ordered Vertical Dispersal**

It appears that ADA, Inc. has merely rubber-stamped the legal position taken by the State Fair in the current litigation and has ignored the mandate of the Court in ordering vertically dispersed seating. Indeed, ADA, Inc. has totally ignored this mandate and has made no suggestions on how it can be accomplished.

Despite the statement by ADA, Inc. that vertically dispersed seating is not required, the courts have held differently in this very situation. While I do not intend for these comments to be a legal memorandum, it is significant to point out that both the United States District Court and the United States 10<sup>th</sup> Circuit Court of Appeals have ordered vertical dispersal of wheelchair seating at the Kansas State Fair grandstand. Judge Marten noted that the Long Range Master Plan which proposed wheelchair seating in the first few rows of the grandstand does not meet ADAAG standards which require dispersed seating for such a venue. The opinion of the 10<sup>th</sup> Circuit contains the following language:

"The Fair has shown by its failure to accommodate disabled individuals, despite its efforts to redesign and renovate its existing facilities, that no methods are effective in achieving program accessibility other than making structural changes. In fact, the Fair has already begun to make structural changes to parts of the Grandstand ... Because the fair must make these alterations to its existing facility, it must comply with the accessibility requirements stated in 28 C.F.R. § 35.151. As noted above, § 35.151 requires that the public entity, in making alterations to existing facilities, comply with either the ADAAG or the UFAS, or else provide clearly equivalent access to the altered facility."

The report contends that "if modifications are made only altered portions are required to comply with the New Construction and Alterations requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG)" citing § 35.151. That section provides that compliance with ADAAG shall be deemed compliance with this requirement. ADAAG requires

wheelchair areas to be an “integral part of any fixed seating plan and shall be provided so as to provide people with physical disabilities a choice of admission and lines of sight comparable to those for members of the general public.” (ADAAG 4.33.3)

*SUMMARY: The so-called legal analysis by ADA, Inc. is defective and is contrary to the order of the Courts. Persons with disabilities have the same right to a choice of seats that able-bodied persons have.*

### **Plans Do Not Indicate Sufficient Companion Seating**

ADAAG and the regulations require at least one companion seat per wheelchair space. The current temporary wheelchair seating area has removable seating (actually, folding chairs) which can provide space for the entire family to sit with the person using a wheelchair. Removable seating (such as that used at Lawrence-Dumont Stadium in Wichita) will allow persons with disabilities the same benefit as those without disabilities. That is, they will be able to sit with the entire family or group. With space for 101 wheelchairs, there would be plenty of space for wheelchairs and numerous companion seats.

*SUMMARY: Patrons in wheelchairs should have the same rights that able-bodied patrons have by allowing the entire family to sit together.*

### **Grandstand Plans Do Not Include an Elevator**

While the report discloses extensive ADA violations on the second floor of the Grandstand and proposes numerous changes, there appears to be no recommendation that an elevator be installed to the second floor. ADAAG 4.1.3 requires a passenger elevator to serve each level in all multi-story buildings unless exempted. Section 35.151(c) provides that the elevator exemption does not apply to the State Fair. Indeed, in one of the previous studies conducted by the Fair an elevator was proposed.

*SUMMARY: Persons with disabilities have the same right to visit the second floor of the Grandstand as persons who are able-bodied have.*

## AMUSEMENT RIDES

### **Access is Required**

The report concludes that ADAAG does not have enforceable standards for amusement rides. While this may be true, the ADA and other regulations require program accessibility. “A public entity shall operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities.” Those programs and activities include amusement rides. It may be “technically infeasible” to make some rides accessible, but that is not true of all of them. For example, the train and the Sky Ride can and should be made accessible. Disneyland, Walt Disney World, Worlds of Fun, Silver Dollar City, and Six Flags provide ample evidence that amusement rides can be enjoyed by persons with disabilities.

*SUMMARY: Persons with disabilities are able to enjoy some of the amusement rides, such as the Sky Ride, the Train, and the Ferris Wheel, among others. They should be given access to those rides.*

### **Electrical Cables Impede Access**

In years past, there were no covers over the electrical cables over which patrons were required to walk when walking down the midway. Recently, covers were placed over the cables but the covers are inadequate. Changes in grade in excess of ½" are required to be ramped and the cables do change the grade in excess of ½". The cables should either be buried in grooves cut in the midway and covered, or covers should be provided which will provide a "ramp" over the cables.

*SUMMARY: A change in grade of over ½" caused by electrical cables can tip a wheelchair over. The cables must be ramped or buried.*

### **VENDORS AT SOUTHEAST ENTRANCE**

Just past the ticket booth at the southeast entrance to the fairgrounds (Entrance Gate E-9) are numerous vendors along the north side of 20<sup>th</sup> Avenue. These vendors are between the Sky Ride and the street. Along the north edge of the street is a concrete curb which prevents wheelchair access to all vendors whose stands are not adjacent to the street. Most (if not all) of the vendors have counters that are well in excess of the permitted 36" height. Many require a wheelchair user to go up the curb and across dirt or grass – a virtually impossible task when the ground is muddy. (See attached report of Kent Johnson)



*SUMMARY: Patrons in wheelchairs are denied access to the numerous vendors the southeast entrance to the fair; they cannot roll over the 4" curb. When it rains, they cannot negotiate the mud.*



### **RESTROOMS**

Until all of the restrooms are modified, there should be information for persons with disabilities available at each entrance. My request for information regarding accessible restrooms on several occasions have been met with a blank stare. Patrons should be provided with information regarding restrooms, emergency stations, TDD's, and the like.

*SUMMARY: Until all restrooms are accessible, patrons in wheelchairs need information on the few restrooms that are accessible.*

### PATHS OF TRAVEL

The U. S. Architectural and Transportation Barriers Compliance Board (The Access Board) has adopted a Design Guide for Accessible Rights-Of-Way, published in November, 1999. Although the report says that the ADA is mute on the topic of public rights of way and methods for determining what constitutes an accessible pedestrian walkway, the Design Guide accompanied by some common sense should provide sufficient guidance for ensuring that paths of travel from automobiles to the fair and throughout the fair will be accessible.

*SUMMARY: Standards exist for accessible paths of travel and should be utilized by the Fair.*

### KANSAS STATUTES AND ADMINISTRATIVE REGULATIONS

#### **Statutes**

I would urge the legislature to *require* a member of the fair board to be a person with a disability. The reference to the establishment of the state fair board is 74-502a, but the correct reference is K.S.A. 74-520a. I would suggest one member be added who would be selected by the governor from three nominees proposed by the Statewide Independent Living Council of Kansas (SILCK).

#### **Regulations**

The Kansas Accessibility Act (K.S.A. 58-1301 *et seq.*), the Kansas Act Against Discrimination, the Americans with Disabilities Act, and the Rehabilitation Act of 1973, as amended, all sufficiently provide definitions of accessibility. There is no need to "reinvent the wheel." If there is a desire to insert definitions, I would suggest that the definitions and prohibitions should be those found in existing laws. The suggested change to 1116-1-1 (actually it's KAR 116-1-1) should not be adopted from the Title II Technical Assistance Manual; it should be adopted from 28 CFR §§ 35.150 and 35.151.

The regulation at 116-2-1 is superseded by Substitute for HOUSE BILL No.2197 passed in 2003 read in conjunction with K.S.A. 39-1101 through 39-1109.

### THE COURT ORDER

Judge Marten's order, and that of the 10th Circuit affirming his order, directed the Fair to conduct a self-evaluation and prepare a transition plan. Specifically, he ordered that "such plans shall address the barriers identified by the plaintiffs and referenced herein." The barriers identified by the plaintiffs and referenced in his order included his general findings that the grandstand seating fails to meet ADA standards, many of the parking areas are not readily accessible, and many of the vending and dining facilities are not readily accessible. They also included certain "uncontroverted facts" that were incorporated by reference to pleadings filed by the plaintiffs. Those facts were identified as plaintiffs' uncontroverted facts numbered 66

through 93. Those deficiencies are reproduced below with references to the pages of the report that addressed the deficiencies (in bold face) or my comments concerning the current status of the deficiency (in italics).

I also note that ADA, Inc. may have used different names for some of the buildings than the names used by the Fair in its previous reports. It is therefore virtually impossible to determine whether the Fair has properly addressed Judge Marten's concerns. A building noted as **NOT ADDRESSED IN REPORT** in numbers 66-93 below may actually have been addressed using another name. This needs to be clarified.

66. The parking spaces proposed in lot "C" (Exhibit 16) are not the parking spaces closest to the nearest Walk-In Entrance Gates G-11 and G-9 (Exhibit 17). *The parking spaces have been relocated. See comments concerning parking elsewhere in these comments.*
67. The following ADA deficiencies exist in the Administration Building: **[REPORT PAGES 14-28]**
1. The Board room restrooms in the Administration Building are not ADA compliant; (Exhibit 16.)
  2. The east entry at the board room is not ADA compliant; (Exhibit 16.)
  3. There is no handicap access from the east sidewalk; (Exhibit 16.)
  4. The main entry doors are not ADA compliant; (Exhibit 16.)
  5. The west ramp at the Administration Building is not ADA compliant; (Exhibit 16.)
  6. The counter top is not compliant; (Exhibit 16.)
  7. The Highway Patrol office does not have handicap facilities; (Exhibit 16.)
  8. The drinking fountain is not compliant; (Exhibit 16.) **[NOT ADDRESSED IN REPORT]**
  9. The public restroom at the Administration Building is not ADA compliant; (Exhibit 16.)
  10. The first aid restroom is not ADA compliant; (Exhibit 16.)
  11. The ticket window is not ADA compliant. (Exhibit 16.)
68. The following ADA deficiencies exist in the Grandstand: **[REPORT PAGES 89-118]**
1. The upper level seating at the grandstand is not wheelchair accessible; (Exhibit 16.) **[NOT ADDRESSED IN REPORT. ADA, INC. DOES NOT AGREE WITH JUDGE MARTEN.]**
  2. The second floor is not accessible; (Exhibit 16.) **[NOT ADDRESSED IN REPORT. ADA, INC. DOES NOT AGREE WITH JUDGE MARTEN.]**
  3. There is inadequate seating for the disabled; (Exhibit 16.)
  4. The stage is not accessible; (Exhibit 16.)
  5. The second floor concessions are not accessible; (Exhibit 16.)
  6. The second floor restrooms are not accessible; (Exhibit 16.)
  7. The second floor drinking fountains are not accessible; (Exhibit 16.)
  8. There is inadequate ADA signage. (Exhibit 16.)
69. The following ADA deficiencies exist in the Industrial Building: **[NOT ADDRESSED IN REPORT]**
1. The restrooms are not ADA compliant; (Exhibit 16.)
  2. The drinking fountains are not ADA compliant. (Exhibit 16.)

70. The following ADA deficiencies exist in the Horse Exhibition Center (Expo Center): **[REPORT PAGES 185-186]**
1. There are no ADA restroom facilities; (Exhibit 16.)
  2. There are no ADA drinking fountains; (Exhibit 16.)
  3. There is no ADA access at the concession stand; (Exhibit 16.)
  4. There is no ADA curb access to the building; (Exhibit 16.)
  5. There is no ADA signage; (Exhibit 16.)
  6. There is no ADA access to the floor level at the north; (Exhibit 16.)
  7. There are no ADA assisted listening devices; (Exhibit 16.)
  8. There is no ADA access to the seating platform; (Exhibit 16.)
71. The following ADA deficiencies exist in the Commercial Building **[NOT ADDRESSED IN REPORT]**
1. The restrooms do not fully comply with the ADA; (Exhibit 16, 17.)
  2. There are no ADA drinking fountains; (Exhibit 16.)
  3. There is no ADA signage. (Exhibit 16.)
72. The following ADA deficiencies exist in the 4H Livestock Building **[NOT ADDRESSED IN REPORT]**
1. The concession area is not compliant; (Exhibit 16.)
  2. There is no ADA access at the seating area; (Exhibit 16.)
  3. There are no assistive listening devices. (Exhibit 16.)
73. The following ADA deficiencies exist in the Farm Bureau Arena: **[REPORT PAGES 77-82]**
1. There is no ADA stage access for the public; (Exhibit 16.)
  2. There is no ADA stage access for performers; (Exhibit 16.)
  3. The existing toilet facility does not comply with the ADA; (Exhibit 16.)
  4. There are no assistive listening devices. (Exhibit 16.)
74. The following ADA deficiencies exist in the 4H Exhibit Building **[REPORT PAGES 1-12]**
1. There is no ADA access to the stages; (Exhibit 16.) **[NOT ADDRESSED IN REPORT]**
  2. There are no ADA drinking fountains; (Exhibit 16.)
  3. The restrooms do not comply with the ADA; (Exhibit 16.)
75. The following ADA deficiencies exist in the Fine Arts/Floriculture Building **[REPORT PAGE 179]**
1. The pass window is not compliant with the ADA; (Exhibit 16.)
  2. The drinking fountain is not accessible; (Exhibit 16.) **[NOT ADDRESSED IN REPORT]**
  3. The restroom facilities do not comply with the ADA; (Exhibit 16.) **[NOT ADDRESSED IN REPORT]**
76. The north entrance of the Domestic Arts Building is not accessible and does not comply with the ADA; (Exhibit 16.) **[REPORT PAGES 57-62]**
77. The following ADA deficiencies exist in the Beef Cattle Judging Building: **[NOT ADDRESSED IN REPORT]**
1. The concession stand does not comply with the ADA; (Exhibit 16.)

2. There is no access to the upper level; (Exhibit 16.)
  3. There are no handrails on the stairs; (Exhibit 16.)
  4. The second floor has a change of level with no ramp; (Exhibit 16.)
  5. The restrooms do not comply with the ADA; (Exhibit 16.)
  6. There is no ADA shower area; (Exhibit 16.)
78. The following ADA deficiencies exist in the Boy Scout Building: **[REPORT PAGES 43-48]**
1. The restrooms do not comply with the ADA; (Exhibit 16.)
  2. The kitchenette does not comply with the ADA; (Exhibit 16.)
79. The following ADA deficiencies exist in the Girl Scout Building **[REPORT PAGES 83-87]**
1. The restrooms do not comply with the ADA; (Exhibit 16.)
  2. The kitchenette does not comply with the ADA; (Exhibit 16.)
80. The following ADA deficiencies exist in the Rabbit Building: **[REPORT PAGES 182-183]**
1. The pass window is not compliant. (Exhibit 16.)
81. The following ADA deficiency exists in the Old Mill: **[REPORT PAGE 179]**
1. The building is not accessible at all. (Exhibit 16.)
82. The following ADA deficiency exists in the Dairy Barn: **[NOT ADDRESSED IN REPORT]**
1. The building is not accessible (“Needs ADA compliant access to building”). (Exhibit 16.)
83. The following ADA deficiencies exist at the Barns: **[NOT ADDRESSED IN REPORT]**
1. Non-ADA compliance at entrances. (Exhibit 16.)
84. The following ADA deficiencies exist at the Swine Arena: **[REPORT PAGE 184]**
1. Non-ADA compliance at entrances. (Exhibit 16.)
  2. Existing restroom facilities do not comply with ADA. (Exhibit 16.)
85. The following ADA deficiencies exist at the Sheep Arena: **[NOT ADDRESSED IN REPORT]**
1. Non-ADA compliance at entrances; (Exhibit 16.)
  2. Existing restroom facilities do not comply with ADA. (Exhibit 16.)
86. The following ADA deficiencies exist at Lake Talbot Building **[REPORT PAGE 133-139]**
1. The restroom stall is not ADA compliant; it is too narrow. (Exhibit 16.)
87. The following ADA deficiencies exist at Lake Talbot Fishing Lake **[NOT ADDRESSED IN REPORT]**
1. Slope of sidewalk is too steep and is not ADA compliant; (Exhibit 16.)
  2. There is no sidewalk to the boat landing. (Exhibit 16.)
88. The following ADA deficiency exists at Lady of Guadeloupe: the ramp is too steep in violation of the ADA. (Exhibit 16.) **[NOT ADDRESSED IN REPORT]**

89. The following ADA deficiency exists at the restrooms behind Guadeloupe: the restrooms do not comply with the ADA. (Exhibit 16.) **[NOT ADDRESSED IN REPORT]**
90. The following ADA deficiency exists at Famous Kansas Buffet & Gallery: the ramp is too steep at the entrance and does not comply with the ADA. (Exhibit 16.) **[NOT ADDRESSED IN REPORT]**
91. The Pride of Kansas Building restroom is not ADA compliant. (Exhibit 16.) **[REPORT PAGES 155-158]**
92. If the restrooms in Exhibit 17 are ADA-compliant, there are still 22 public restrooms that do not comply with the accessibility requirements of the ADA. (Exhibit "G," Summary of Restroom Analysis from Exhibit 16, Exhibit 17, Exhibit "H" and Exhibit "I.")
93. After the completion of the Kansas State Fair Master Plan in either 2006 or 2008<sup>1</sup>, there will be approximately 16 public restrooms that do not comply with the accessibility requirements of the ADA. (Exhibit "G," Summary of Restroom Analysis from Exhibit 16, Exhibit 17, Exhibit "H" and Exhibit "I.") **[SEE SECTION ON RESTROOMS, BELOW]**

Some of the buildings referenced in the report are identified by different names or are buildings not identified in Judge Marten's order. They are listed below:

- Agricultural Education Exhibit Building (p. 29-30)
- Bardo's (p. 31)
- Beef Arena (p. 33-40)
- Bison Arena (p. 41-42)
- Cottonwood Court (p. 49-52) marked "draft"
- Do-Art Building (p. 53-54)
- Dodge Stage (p. 55-56)
- Eisenhower Building (p. 63-64) marked "draft"
- Encampment Building (p. 65-72)
- Information Station (p. 119)
- FFA Showcase Building (p. 121)
- Meadowlark Building (p. 123-126)
- Morton Building (p. 127-128)
- Professional Art Gallery (p. 129)
- Bison and Lake Talbot Restroom (p. 133-139) (see Lake Talbot, above. May be same restroom)
- Fort Leavenworth Blvd. restroom (p. 141-149)
- Lot "C" public restroom (p. 151-154)
- Sunflower Building North (p. 159-162)
- Sunflower Building South (p. 163-166)
- Vendor Concession Stands
  - Mini-Doughnuts p. 167
  - Old Fashioned Ice Cream Parlor p. 167

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<sup>1</sup> Some documents in Exhibit 16 indicate renovations will be complete in 2006. Other documents indicate the Master Plan is a 6-year project and was started in 2002, thus ending in 2008.

Messy Marvin's p. 167  
 Pronto Put p. 168  
 Cotton Candy p. 168  
 RA Servier Concessions p. 168  
 Jaffles p. 169  
 Our Lady of Guadalupe p. 169  
 Kansas Nut House p. 169  
 Kansas Tornado Sandwich p. 170  
 Peechie Weenie p. 170  
 Famous Kansas Buffet p. 170  
 Kansas Karaoke p. 170  
 Roadhouse Deli p. 170  
 Newburn p. 171  
 Mel's p. 171  
 Angeles Greek p. 172  
 Beer Garden p. 172  
 White House (p. 175-178)  
 Kansas Lottery Building (p. 180)  
 Technology Expo Center (p. 180)  
 Giant Slide Ticket Booth (p. 180)  
 Entrance to Oz (p. 181)  
 Poultry/Pigeon Area (p. 181-182)  
 Milking Parlor (p. 183)  
 Unnamed booth behind FBA bleachers at Cotton Ave and Ft. Leavenworth Blvd (p. 186)  
 KSF Booth on pad at Bison Blvd. & Cottonwood Ave. (p. 187)  
 Various Booths on pad at Bison Blvd & Cottonwood Ave (p. 187)

## Restrooms

Also included in Judge Marten's findings was a listing of restrooms which were not accessible and, according to Fair documents, were not planned to be accessible. These, too, were to be addressed by the Fair. That list follows:

### PHYSICALLY CHALLENGED INFORMATION PUBLIC RESTROOMS WITH WHEELCHAIR ACCESS AS DEFINED BY KANSAS STATE FAIR

Building	1994 (Exhibit H)	1998 (Exhibit 16)	2001 (Exhibit I)	2002 (Exhibit 17)	Result after 2006/2008
Commercial	Yes	No	Yes	Photo	Yes
Grandstand	Yes	2nd Floor - No	Yes	Photo	Yes
Industrial	Yes	No			No
Eisenhower	Yes		Yes	Photo	Yes
Sunflower	No		Yes	Photo	Yes

Pride of Kansas (Scheduled 2004)	No	No	No		No
Poultry	No				No
Boy Scout	Yes	No			No
Girl Scout	No	No	No		No
4-H Exhibit (Scheduled 2005)	No	No	No		Yes
4-H Showcase (Scheduled 2005)			No		Yes
4-H/FFA Livestock (Scheduled 2004 & 05)	No				Yes
Plant Science	No		No		No
Beef Judging	Yes	No	Yes		Yes
Beef Pavilion				Photo	Yes
Sheep & Swine	Yes	No	Women's - Yes Men's - No	Photo	Yes
Horse Exh. Center (Expo Center)	No	No	Yes	Photo	Yes
Dairy Tie Barn	No		No		No
Rabbit Barn	No public RR		No		No
Encampment (Renovated in 1996)	No		Yes	Photo	Yes
Dairy Pavilion	No		No		No
Bison Arena			No		No
Bison Arena Seating			No		No
Meadowlark (Renovated in 2000)			Yes		Yes
Oz			No		No
Administration Building (Scheduled 2006)		No			Yes
First Aid		No			Yes

Farm Bureau Arena		No			No
Medora Restroom		No		Photo	Yes
Carnival Restroom		No			No
Guadeloupe Restroom		No			No
Fine Arts & Floriculture		No			No
Buhler				Photo	Yes
Sign Shop				Photo	Yes
Haven				Photo	Yes
Domestic Arts (Compliant Restrooms scheduled for 2003)					Yes

Again, because of the differences in names it is difficult to compare this list to the list of restrooms in the report. It appears, however, that the following restrooms have **not** been addressed by the report:

Industrial Building  
Pride of Kansas Building  
Poultry Building  
4-H Showcase  
4-H/FFA Livestock<sup>2</sup>  
Plant Science  
Dairy Tie Barn  
Dairy Pavilion  
Bison Arena Seating  
Oz  
Medora Restroom  
Carnival Restroom  
Guadeloupe Restroom  
Fine Arts & Floriculture

*SUMMARY: The court order is specific on what deficiencies exist and the obligation of the Kansas State Fair to evaluate and correct those deficiencies. While the report addresses a multitude of deficiencies not mentioned in the court order, it ignores or dismisses many others.*

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<sup>2</sup> Either this building or the 4-H Showcase may be the "FFA Showcase" referred to in the report.

## REPORT OF DISABILITY MANAGEMENT CONSULTING GROUP L.L.C.

At the request of the plaintiffs in the pending lawsuit, Kent Johnson, President of Disability Management Consulting Group, L.L.C., Columbia, Missouri, has made three trips to the Kansas State Fair with the first one being in 2000. The last was during the Fair in September, 2003. The DMCG report of September, 2003, and February 16, 2004, are attached and incorporated in my comments. The qualifications of Kent Johnson are also attached.

### CONCLUSION

It does not appear from the report that ADA, Inc. was provided with a copy of the Memorandum and Order of Judge Marten or the supporting documents, since it is so difficult to compare the Order and the report.

I strongly urge the Fair Board to continue its work and make the changes proposed in these comments.

Respectfully submitted,

# DMCG

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**2801 Jonquil Place**  
**Columbia, MO 65202-1278**  
**Toll Free (866) 573-DMCG or (573) 817-5826**  
**DMCG@peoplepc.com**

February 16, 2004

David P. Calvert, P.A.  
The Buttermilk Lion Building  
532 N. Market  
Wichita, Kansas 67214-3514

Re: *Mandy Chaffin, et al. v. Kansas State Fair, et al.* – Kansas State Fair, ADA Self Evaluation/Transition Plan, January 2004

Dear Mr. Calvert:

I have completed my review of the Kansas State Fair, ADA Self Evaluation/Transition Plan (herein after referred to as "Transition Plan), which was completed by ADA, Inc. in January of 2004. I am writing to you with grave trepidation regarding apparent omissions, basic underlying misconceptions and misinterpretations that are outlined in this Transition Plan.

The Americans with Disabilities Act (ADA), including appendages, is a complex, yet understandable, civil rights law prohibiting discrimination based on disability. Many experts who help define and interpret the technical aspects of the ADA may still be in their infancy regarding technical skills and knowledge due to the youthfulness of the ADA. As a technical expert myself, providing technical information as a profession for the past 15 years on the ADA and related civil rights law, I proceed with due caution and understanding of the ADA's novelty when examining the work of another professional in my field. With this information in mind, I feel it is necessary to make you aware that portions of the Transition Plan contain verbiage and technical guidance that appears to be flawed and possibly based on ignorance or lack of understanding of some of the basic principles of nondiscrimination, which underlie the ADA. In addition, the Transition Plan does not address some of the most apparent structural barriers that prohibit or reduce the participation of individuals with disabilities at the Kansas State Fair Grounds. Therefore, I have outlined my specific concerns below to

assist you in your efforts to help ensure the Kansas State Fair provides fully accessible and compliant programs, services and activities to patrons with disabilities.

1. In the Executive Summary of the Transition Plan the following statement is proposed:

The Sky Ride and the Train were not evaluated for compliance. Ye Olde Mill was evaluated for features other than the actual ride. The ADAAG does not have enforceable standards for amusement rides.

**Response:** Numerous other amusement rides, which operate during State Fair activities, apparently were also not evaluated for compliance. It is my expert opinion that the amusement rides are integral to the Fair activities and represent programs, services and activities, which are offered to patrons by the Kansas State Fair.

Title II of the ADA requires “program access” and non-discrimination based on disability pertaining to all programs, services and activities offered by an entity that has non-discrimination obligations under Title II. Therefore, individual amusement rides must be accessible and usable by individuals with disabilities. During the development of Transition Plans, it is imperative to examine ADA regulation along with ADAAG in making determinations regarding program access. Simply, because the ADA Accessibility Guidelines (ADAAG) do not specifically address amusement rides, does not relieve the Kansas State Fair from ensuring program access to all programs, services and activities.

ADAAG, in its current form, is not intended to provide specific accessible or structural guidance on every possible type of structure or facility. The Title II Technical Assistance Manual (TAM II), created by the U.S. Department of Justice, explains the processes to be taken where ADAAG does not contain specific standards for a particular type of facility in the following verbiage (italics) and examples taken from TAM II, Section 6.2100:

*II-6.2100 General.*

*What if neither ADAAG nor UFAS contain specific standards for a particular type of facility? In such cases the technical requirements of the chosen standard should be applied to the extent possible. If no standard exists for particular features, those features need not comply with a particular design standard. However, the facility must still be designed and operated to meet other title II requirements, including program accessibility (see II-5.0000).*

*ILLUSTRATION 1: A public entity is designing and constructing a playground. Because there are no UFAS or ADAAG standards for playground equipment, the equipment need not comply with any specific design standard. The title II requirements for equal opportunity and program accessibility, however, may obligate the public entity to provide an accessible route to the playground, some accessible equipment, and an accessible surface for the playground.*

*ILLUSTRATION 2: A public entity is designing and constructing a new baseball stadium that will feature a photographers' moat running around the perimeter of the playing field. While there are no specific standards in either ADAAG or UFAS for either dugouts or photographer's moats, the chosen standard should be applied to the extent that it contains appropriate technical standards. For example, an accessible route must be provided and any ramps or changes in level must meet the chosen standard. The public entity may have additional obligations under other title II requirements.*

In general terms, TAM II states that the specifications contained in ADAAG should be applied to specialty type facilities, to the "extent possible." In other words, ADAAG certainly provides specifications regarding paths of travel that would lead to amusement rides. ADAAG provides specifications regarding passageways, door openings, transfer heights, etc., all of which among other specifications that could be applied to amusement rides. Furthermore, the above TAM II information makes it clear that regardless of whether or not ADAAG provides standards for a particular building or facility covered by Title II, the program access provisions must still be adhered to.

It is clear that, if an entity covered by Title II of the ADA offers recreational programs to the public, then the recreational buildings or facilities, including amusement rides, must be readily accessible and usable by individuals with disabilities. In order to assist public and private organizations on making recreational facilities accessible, the U.S. Access Board (The federal organization that created ADAAG) has issued recreation facility guidelines. Specifically, guidelines have been issued by the Access Board to create a general level of usability for individuals with disabilities. Although, these recreational guidelines are not currently part of the ADA Accessibility Guidelines, they are the most recent and up-to-date information available for making such facilities accessible.

The Transition Plan, under the Cottonwood Court section, also provides the following information:

Picnic Table Area: <u>Path of Travel</u>	Path of Travel: Grass covered earth.	Although not an optimal surface, no modifications are being recommended. There are no ADAAG standards for outdoor recreational areas such as the picnic area. <u>See TechSpec™: Exterior Path of Travel</u>	N/A	\$1,000	Sept 2007
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In addition, under this section, the following information is provided:

Pier:	The pier can only be reached by using stairs.  Pier functions as an amusement ride. No corrections will be made.	The pier is classified as an outdoor recreational area. There are no ADAAG standards for such areas. No modifications are being recommended. Photo: Pier  ADA, Inc. suggests that modifications be performed to make the pier usable by individuals who cannot use stairs. <u>See TechSpec™: Outdoor Areas</u>	N/A	\$0	Sept 2007
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It would be a tragic misconception of the underlying intent of the ADA to assume that state buildings, facilities and programs, such as swimming pools, amusement rides, outdoor facilities, sports facilities, picnic areas, boating facilities, golf courses, exercise facilities, shooting facilities, picnic areas and many others; are not required to be accessible and usable by individuals with disabilities simply because ADAAG does not specifically address them.

2. In the Executive Summary of the Transition Plan the following statement is made:

The streets of the Kansas State Fair are blocked to vehicular traffic during the fair and become pedestrian walkways. The ADA is mute on the topic of public rights of way and methods for determining what constitutes an accessible pedestrian walkway. The ADAAG does provide useful guidance, even though it does not mandate any particular solutions.

This statement is very confusing. ADA, Inc. states, as noted above, the streets of the Kansas State Fair “become pedestrian walkways.” Then the statement refers to “public rights of way.” This confuses and convolutes the issue that, numerous buildings and facilities exist at the Kansas State Fair that represent programs and services provided by the Kansas State Fair. In order for these programs and services to be accessible to individuals with disabilities, accessible pedestrian pathways must exist leading to these buildings and facilities. This is a simple issue, which ADAAG addresses specifically and in depth. In the scoping

provisions ADAAG (4.1.2) states, “ (1) At least one accessible route complying with 4.3 shall be provided within the boundary of the site from public transportation stops, accessible parking spaces, passenger loading zones if provided, and public streets or sidewalks, to an accessible building entrance. (2) At least one accessible route complying with 4.3 shall connect accessible buildings, accessible facilities, accessible elements, and accessible spaces that are on the same site. (4) Ground and floor surfaces along accessible routes and in accessible spaces shall comply with 4.5.”

In addition to ADAAG specifications, once again, the U.S. Access Board has created final rule makings pertaining specifically to “public rights of ways” and numerous other publications regarding how to make various types of pedestrian paths of travel accessible. Regardless of whether or not the existing pedestrian pathways at the Kansas State Fair are called rights of way, pedestrian walkways, or routes of travel, the pedestrians do utilize walking surfaces to access buildings, facilities, and programs offered at the Fair and these surfaces are required to be accessible according to the ADA, ADAAG and numerous other accessibility guidelines.

The ADA is not “mute” on the topic of program access and provides guidance on making pedestrian pathways that lead to state government buildings and facilities fully accessible to individuals with disabilities. Program access is the underlying measure of a public entities non-discrimination obligation. ADAAG, and numerous other guidance materials, can help to assist a public entity in ensuring that all programs, services and activities are accessible to individuals with disabilities. Accessible pedestrian pathways are typically an essential component of ensuring program access of buildings and facilities. From my first hand experience at the Kansas State Fair grounds, currently a multitude of barriers along pedestrian pathways exist and are not addressed by the Transition Plan.

The point and end result of developing a Transition Plan is intended to ensure program access to all programs, activities, and services offered by the Kansas State Fair regardless of whether or not ADAAG or any other accessibility guideline specifically addresses a particular type of facility.

I hope this information is helpful in assisting your valiant efforts to ensure the Kansas State Fair complies with the Americans with Disabilities Act and is accessible to people with disabilities who patronize Fair activities.

Respectfully,

Kent Johnson, O.M.

September 23, 2003

David P. Calvert, P.A.  
The Buttermilk Lion Building  
532 N. Market  
Wichita, Kansas 67214-3514

Re: Mandy Chaffin, et al. v. Kansas State Fair, et al. – State Fair Grounds on-site accessibility survey, September 11, 2003

Dear Mr. Calvert:

I am writing to provide you with a formal technical description of my overall findings during our on-site accessibility survey of the Kansas State Fair Grounds on September 11, 2003.

The intent of our on-site survey was to determine the number and extent of structural barriers that currently exist which limit or deny the participation of patrons with disabilities to activities, programs, and services offered at the Fair Grounds; and barriers that violate the provisions of Title II of the Americans with Disabilities Act (ADA) and Title II's referenced guidelines (ADA Accessibility Guidelines). In addition, our on-site survey was for the purpose of comparing the current level of structural accessibility compared to the previous on-site visit on May 25, 2001.

In general, numerous structural modifications have been made in the past two years that increase the level of structural accessibility at the Fair Grounds. However, the overall programs, services and activities offered at the Kansas State Fair Grounds still remain highly inaccessible to patrons with disabilities and many of the structural modifications, which have been made, still do not comply with the ADA Accessibility Guidelines (ADAAG). Discussed below are two of the major issues regarding inaccessible programs and structures.

The newly constructed pathway (painted wooden ramp) leading to the accessible seating locations at the grandstand does not comply with ADAAG specifications (4.1.3(19) regarding slip resistant surfaces and poses a safety hazard to individuals who attempt use the ramp. The number (39) of existing wheelchair seating locations at the grandstand is still extremely deficient compared to the ADAAG required 101 wheelchair seating locations where existing seating capacity is 10,000 total seats. All existing wheelchair seating locations at the grandstand are still confined to one particular area and not dispersed where patrons with disabilities are offered variety or choice and lines of sight as compared to other patrons without disabilities. The existing wheelchair seating locations are isolated and separate from other spectators, who may include family and friends. The Department of Justice's publication titled "Accessible Stadiums" identifies eight key features of accessible stadiums: 1) One percent must be wheelchair locations with slip resistant surfaces, 2) Wheelchair locations must be integrated, 3) Conventional companion seats, 4) Wheelchair locations must be in all locations, 5) Removable seats in wheelchair locations, 6) Wheelchair seating must be dispersed with a choice of views, 7) Wheelchair locations must be on an accessible route connecting all to all public areas, and 8) Wheelchair locations must provide lines of sight over standing spectators. The existing wheelchair seating at the grandstand only adheres to one of these key features, #5 (removable seats in wheelchair locations) and this feature actually benefits the Fair by allowing wheelchair seating locations to be sold to the general public when they are not utilized. Therefore, none of

the key features of an accessible stadium, which make the stadium accessible and usable by individuals with disabilities, currently exists at the Kansas State Fair grandstand.

At a minimum, all 8 of the Department of Justice's key features should be complied with by making structural modifications. Such modifications should include creating additional accessible wheelchair seating locations, integration and dispersion of wheelchair seating locations; dispersion should be both vertical and horizontal dispersion so that upper level amenities offered at the grandstand can be accessed; providing appropriate accessible paths of travel to wheelchair locations via elevator, ramp, lift, or other means of access, providing accessible paths of travel from wheelchair locations to all other programs, activities, and services offered at the Fair Grounds (e.g. restrooms, concessions, ticket counters, amusement rides, etc); and ensuring that dispersed wheelchair seating locations provide appropriate lines-of-sight over standing patrons.

General pedestrian pathways are still highly inaccessible to patrons with disabilities. For example, accessible pathways do not exist leading to the vast majority of vendor booths, concession stands/shops, amusement rides, and other permanent facilities, such as the ticket booth shown in the photo below. Inaccessible (non-compliant with ADAAG) features of pedestrian pathways include, but are not limited to, abrupt changes in level due to power cords crossing pathways, curbs without curb cuts, dirt (mud) surfaces, steep running slopes, steep cross slopes, ramps without handrails, broken concrete, and steps with no alternate accessible route. Accessible paths of travel are one of the main components in making all services, programs and activities offered by the Kansas State Fair accessible to individuals with disabilities. Since pedestrian travel is essential to the Programs and activities offered at the Fair Grounds, it is extremely important that these routes also be accessible and usable by patrons with disabilities. Currently, only a portion of programs and activities at the Fair are available by "accessible" pedestrian

2 Photos: man using wheelchair being pulled up a curb and ticket booth adjacent to curb with no curb cut.

routes. Therefore, patrons with disabilities are currently isolated to only a small portion of existing programs and activities due to the lack of accessible and usable paths of travel.

Numerous other facilities, exhibits, common use areas, amusement rides (e.g. train ride), and services (e.g. the First Aid Station) at the Fair are inaccessible due to various structural barriers, all of which will be fully detailed in my follow-up Survey Report.

Overall, the Kansas State Fair Grounds still remains highly inaccessible to individuals with disabilities, particularly the grandstand, and remains noncompliant with the Americans with Disabilities Act and the Rehabilitation Act of 1973, including the regulatory provisions of these federal civil rights laws.

Respectfully,

Kent Johnson, O.M.

## **Kent L. Johnson**

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2801 Jonquil Place  
Columbia, MO 65202  
Home Phone (573) 446-8973  
Work Phone (800) 949-4232 or (573) 817-5826

### **Qualifications**

Kent Johnson has been providing technical information, training, and consultation on a variety of disability-related laws, including the Americans with Disabilities Act, for the past fifteen years. He has trained hundreds of organizations and associations; federal, state, and local government agencies; and numerous private business entities regarding the technical regulation and provisions of disability-related laws. Mr. Johnson subcontracts with the Great Plains ADA & IT Center and numerous other organizations to provide disability civil rights technical information. He has created and provided hundreds of specific reports, policies, and practices pertaining to architectural access, program access, and compliant policies in reference to the technicalities of disability law during private consultation with clients. Mr. Johnson operates a private consulting business providing accurate and timely technical information on disability-related laws to various organizations including federal organizations, state organizations, municipalities, counties, private business and employers. He maintains liaison relationships with numerous federal, state, and local agencies that enforce or create pertinent information on disability-related laws to stay apprised of present national activities and to help ensure the provision of accurate information and consultative guidance.

### **Employment History**

Principle/Operations Manager: Disability Management Consulting Group L.L.C. – Columbia, MO – 1998 to Present.  
Associate Director: Great Plains Disability & Business Technical Assistance Center – Columbia, MO – 1999 to 2000  
Missouri Coordinator: Great Plains Disability & Business Technical Assistance Center – Columbia, MO – 1996 to 1999  
Technical Assistance Coordinator: Great Plains Disability & Business Technical Assistance Center – Columbia, MO 1995 to 1996  
Americans with Disabilities Act Program Coordinator: Governor's Council on Disability, State of Missouri – Jefferson City, MO – 1994 to 1995  
Americans with Disabilities Act Specialist: Governor's Council on Disability, State of Missouri – Jefferson City, MO – 1992 to 1994  
Accessibility Specialist: Southwest Center for Independent Living – Springfield, MO – 1989 to 1992.

## Professional Consulting Experience

Organizations that Mr. Johnson has recently provided services to and organizations that currently receive services include, but are not limited to, the following:

<p><u>Accessibility Consulting Services, Inc.</u>  Contact: John Moseley, Owner  408 Manor Drive  Columbia, MO 65203  <u>Services Provided:</u> Numerous consulting activities relating to schools, municipalities, and housing complexes. Provision of services includes training, technical assistance, on-site surveys and written accessibility survey reports.  1995 to Present</p>	<p><u>Great Plains Disability &amp; Business Technical Assistance Center</u>  Contact: James de Jong, Director  100 Corporate Lake Drive  Columbia, MO 65202  <u>Services Provided:</u> On-going subcontractural and consultation regarding disability-related laws. Provision of services includes technical assistance, training, and materials dissemination to covered entities and protected individuals under the Americans with Disabilities Act and related disability-rights laws.  2000 to Present</p>
<p><u>Renaissance Design Group</u>  301 Grand Avenue  Des Moines, IA 50309  Contact: William Dikis, FAIA  <u>Services Provided:</u> Extensive subcontractural and consultative services regarding site structural accessibility surveys of all City of Des Moines buildings and facilities, including accessibility survey training to all project design professionals.  2002 to Present</p>	<p><u>GAP Architects</u>  Contact: Paul B. Gloe II, A.I.A.  1900 Swift, Suite 209  North Kansas City, MO 64116  <u>Services Provided:</u> On-site architectural accessibility survey and detailed written accessibility survey report and on-going technical support.  2000</p>
<p><u>David P. Calvert, P.A.</u>  The Buttermilk Lion Building  532 N. Market  Wichita, KS 67214  <u>Services Provided:</u> Technical support, on-site architectural access surveys, expert testimony/deposition and detailed written accessibility survey reports pertaining to buildings and facilities owned or operated by counties, cities and private businesses  1998 to Present</p>	<p><u>Rotts &amp; Gibbs, L.L.P.</u>  Contact: Le Ann Wiseman, P.A.  16 N. Eighth Street  Columbia, MO 65205  <u>Services Provided:</u> Technical support, on-site architectural access surveys, expert testimony and detailed written accessibility survey reports pertaining to buildings and facilities owned or operated by municipalities.  2000 to Present</p>
<p><u>Victoria L. Herring, Attorney at Law</u>  Suite 200, Terrace Place  2600 Grand Avenue  Des Moines, IA 50312-5300  <u>Services Provided:</u> Legal case specific technical assistance and research pertaining to the Americans with Disabilities Act and other disability-related laws.  1999</p>	<p><u>Ladue School District</u>  Contact: Charlotte Roberts, Asst. Adm.  9703 Conway Road  St. Louis, MO 63124  <u>Services Provided:</u> On-site accessibility survey and detailed written survey report identifying architectural and program barriers according to the technical provisions of the Americans with Disabilities Act of all school district buildings and facilities, including sports arenas, public common areas, swimming pools, auditoriums, and gymnasiums.  1999</p>

**Professional Consulting Experience (continued)**

<p><u>Missouri Protection and Advocacy Services</u>          Contact: Josh Douglas, Legal Counsel          905 S. Country Club Drive          Jefferson City, MO 65109          Phone: (573) 893-3333  <u>Services Provided:</u> Subcontractual and consultation services regarding disability-rights laws. Technical assistance, training, technical enforcement consulting, on-site accessibility surveys, survey write-up support, and accessible design assistance.          2001 to Present</p>	<p><u>City of Warsaw, Missouri</u>          Contact: Kathy Ireland, City Clerk          181 W. Harrison          Warsaw, MO 65355          Phone: (660) 438-5522  <u>Services Provided:</u> Subcontractual consultation: Formation of Disability Advisory Council, on-site accessibility surveys of all City buildings and facilities, detailed written survey reports and transition plan development.          2003 to Present</p>
<p><u>ADAPT St. Louis</u>          Contact: Michelle Steger, Director          143 Orchard          St. Louis, MO 63124          Phone: (314) 822-3285  <u>Services Provided:</u> Case specific technical assistance, complaint mediation, on-site structural accessibility surveys, and training.          1999 to Present</p>	<p><u>Missouri Western State College</u>          4525 Downs Drive          St. Joseph, MO 64507          Contact: Ellen Smithers, ADA Coordinator  <u>Services Provided:</u> On-going technical assistance regarding accessibility of programs and services, including transition plan creation and facilities &amp; buildings surveys.          2000 to Present</p>
<p><u>Missouri Commission on Human Rights</u>          3315 W. Truman Blvd., P.O. Box 1129          Jefferson City, Missouri 65102-1129          Phone: (573) 751-1966          Contact: Karen Anderson, Director  <u>Services Provided:</u> Specialized advocacy and legal enforcement personnel training on ADA Title III, complaint specific technical assistance, and structural accessibility surveys to assist with complaint mediation.          2001 to Present</p>	<p><u>Kirkwood School District R-7</u>          11289 Manchester Road          Kirkwood, MO 63122          Phone: (314) 213-6100          Contact: Tony Koenig, Director Facilities MGT  <u>Services Provided:</u> Provision of extensive technical assistance, on-site structural accessibility surveys and written reports of all buildings and facilities, and advisory council training.          2002 Present</p>
<p><u>Johnson County Detention Center</u>          Johnson County Kansas          111 South Cherry, Suite 3500          Olathe, KS 66061          Contact: Jerry Mallory, Director of Facilities  <u>Services Provided:</u> On-site structural accessibility survey of large correctional facility, written survey reports, surveys and written reports of County voting facilities, on-going technical assistance.          2001 to Present</p>	<p><u>Community Living, Inc.</u>          #8 Westbury Dr., Suite 100          St. Charles, MO 63301-2573          Contact: Barb Griffith, Director  <u>Services Provided:</u> Subcontractual and consultative services pertaining to structural accessibility surveys and written reports of all facilities regarding ADA accessibility guidelines and CARF accreditation standards.</p>
<p><u>Lindbergh School District</u>          4900 S. Lindbergh Blvd.          St. Louis, MO 63126-3299          Phone: (314) 729-2480          Contact: Karl Guyer, Director of Facilities MGT  <u>Services Provided:</u> on-site structural accessibility surveys and written reports of all buildings and facilities.          2002 Present</p>	<p><u>City of Olivette</u>          9473 Olive Blvd.          Olivette, MO 63132-3199          Phone: (314) 993-0444          Contact: Missy Waldman, Council Member  <u>Services Provided:</u> Provision of technical information regarding structural accessibility to City services and programs, on-site surveys.          2002</p>

Professional Consulting Experience (continued)

<p><u>Riner &amp; Walker, P.C., Attorneys at Law</u>          Elm Court Plaza, 171 E. Elm Street          Jefferson City, MO 65101          Phone: (573) 635-9200          Contact: Le Anne Wiseman, Attorney          Services Provided: Provision of technical information pertaining to disability civil rights and family law, including trial strategy.          2000 to present</p>	<p><u>City of Prairie Village</u>          7700 Mission Road          Prairie Village, Kansas 66208          Phone: (913) 381-6464          Contact: Robert Pryzby, PW Dir., ADA Coord.          Services Provided: On-site survey of buildings and facilities, and police employment consultation pertaining to disability civil rights.          1999 to 2002</p>
<p><u>City of Iowa City</u>          410 East Washington Street          Iowa City, Iowa 52240-1826          Contact: Rob Winstead, Dir. Public Works          Services Provided: Technical consultation pertaining to the ADA Accessibility Guidelines and manufactured fabrications or kiosks and other facilities and devices.          2000</p>	<p><u>University of Missouri</u>          Office For Disability          Facilities Management          Legal Counsel          Services Provided: On-going technical consulting pertaining to disability civil rights laws in reference to internal employment policies and practices, buildings and facilities design and construction, and architectural drawing evaluations.          1996 to Present</p>
<p><u>Saint Louis County</u>          Contact: Dana McAuliffe, ADA Coordinator          41 South Central Avenue          St. Louis, MO 63105  <u>Services Provided:</u> On-site accessibility surveys and detailed written survey reports identifying architectural and program barriers according to the technical provisions of the ADA. Numerous trainings including training the entirety of County Police personnel.          2001 to Present</p>	<p><u>Sunset Hills Properties</u>          Contact: Sunny Gibbs, Procurement Director          St. Louis, MO 63127          Phone: (314) 727-6664  <u>Services Provided:</u> On-site accessibility surveys and detailed written survey reports identifying architectural barriers of common use areas at strip mall locations. Surveys performed based on ADAAG and Title III of the ADA.          2002</p>
<p><u>Quaker Oats, Inc.</u>          Contact: Stan Stuck          4501 Paris Road          Columbia, MO 65202  <u>Services Provided:</u> Examination of internal employment policies and practices, and recommendations for change regarding ADA compliant employment practices.          2000</p>	<p><u>Glassman, Bird &amp; Braun, L.L.P.</u>          Contact: Todd R. Stramel          113 W. 13<sup>th</sup> Street          Hays, KS 67601-0727  <u>Services Provided:</u> Expert opinions, technical information, and research regarding specific provisions and regulation of the ADA in reference to elevators, Limited Use/Limited Access elevators, and local government program access.          1999 to 2001</p>
<p><u>UMB Bank Pavilion (Ampitheater – St. Louis, MO)</u>          Contact: Jennifer Rawlings, Assoc Counsel          Clear Channel Entertainment          2000 West Loop South, Suite 1300          Houston, TX 77027  <u>Services Provided:</u> On-site accessibility surveys and detailed written survey report identifying architectural barriers according to the technical provisions of the ADA.          2002</p>	<p><u>AHAL Contracting Company, Inc.</u>          Contact: Gary Rickert, Risk Manager          3746 Penridge Road          Bridgeton, MO 63044-1264  <u>Services Provided:</u> Examination of internal employment policies and practices, and recommendations for change regarding ADA compliant employment practices.          2000</p>

**Professional Consulting Experience (continued)**

<p><u>Cox Medical Center North</u>          Contact: John Mentgen, VP of Support Services          1423 N. Jefferson Ave.          Springfield, MO 65802  <u>Services Provided:</u> On-site accessibility survey and detailed written survey report identifying architectural barriers according to the Americans with Disabilities Act of all hospital buildings and facilities. 2000</p>	<p><u>Green County Libraries</u>          Contact: Ellen Kerr, SPHR, HR Manager          4653 South Campbell Avenue          Springfield, MO 65801-0760  <u>Services Provided:</u> Examination of internal employment policies and practices, and recommendations for change regarding ADA compliant employment practices, including policy creating. 2000</p>
<p><u>Kelly Mescher, Counsel</u>          University of Missouri          227 University Hall          Columbia, MO 65211  <u>Services Provided:</u> Expert deposition pertaining to Coinmach v. University of Missouri Curators. 2001</p>	<p><u>Thompson Coburn LLP</u>          Attorneys at Law          525 West Main St.          Belleville, Illinois 62220-0750          Contact: Curt E. Reitz, Attorney  <u>Services Provided:</u> Case specific technical assistance pertaining to building guidelines. 2002</p>
<p><u>Douglass Community Services, Inc.</u>          1100 Broadway          Hannibal, Missouri 63410          Contact: Mernell King, Director          Phone: (573) 221-3890  <u>Services Provided:</u> Provision of consultation and technical information pertaining to Title I &amp; III of the ADA. 1997</p>	<p><u>Aging Services</u>          3100 E. Avenue NW, Suite 103          Cedar Rapids, Iowa 52405          Contact: Joel Wulf, Director          Phone: (319) 398-3644  <u>Services Provided:</u> On-site accessibility survey and technical information specific to Adult Day Health Centers. 1997</p>
<p><u>WoodHaven</u>          1405 Hathman Place          Columbia, MO 65201          Contact: Mark Palmer, Director          Phone: (573) 876-7303  <u>Services Provided:</u> On-site accessibility surveys and written survey reports pertaining to the ADA Accessibility Guidelines. Consultation regarding internal policies and procedures regarding disability civil rights. 1998</p>	<p><u>City of Chillicothe</u>          City Hall          1439 Polk          Chillicothe, MO 64601          Contact: Sandy Neidholdt, City Clerk  <u>Services Provided:</u> On-site accessibility surveys of City buildings and facilities, including written survey reports. Consultation regarding ADA and Section 504 technical information and employment policies development 1997 to 2000</p>
<p><u>U.S. Department of Agriculture, Rural Development</u>          Contact: Charles Marcks, Missouri Coordinator          1715 W. Worely          Columbia, MO 65202  <u>Services Provided:</u> On-going technical assistance and training on disability-rights laws pertaining to federally funded housing complexes. 1993 to 2001</p>	<p><u>Kansas City Fair Housing Center</u>          Contact: Mark Jones, Director          3033 Prospect Ave.          Kansas City, MO 64128  <u>Services Provided:</u> On-site housing complex accessibility surveys, expert testimony, and housing law training. 2001 to Present.</p>

### Professional Consulting Experience - Housing

<p><u>Wallace Architects</u>  Contact: Cindy Anderson  3615 W. Broadway  Sedalia, MO 65301  <u>Services Provided:</u> On-site accessibility surveys and detailed written reports identifying architectural and program barriers according to the Americans with Disabilities Act, the Rehabilitation Act, and the Fair Housing Amendments Act of numerous federally funded housing complexes.  1995 to 2000</p>	<p><u>The Disability &amp; Fair Housing Project</u>  LINK/HUD  Contact: Robin Tropper  2401 E. 13<sup>th</sup> Street  Hayes, KS 67601  <u>Services Provided:</u> Extensive subcontractural services providing technical Assistance and training on housing disability-rights laws to the housing industry and disability-related organizations in central U.S. Oversee federal grant implementation.  2001 to 2002</p>
<p><u>Dubuque Human Rights Commission</u>  City of Dubuque  1300 Main, City Hall Annex  Dubuque, Iowa 52001-4732  Phone: (319) 589-4190  Contact: Kelly Larson, Executive Director  <u>Services Provided:</u> On-site structural accessibility surveys and survey reports pertaining to the Fair Housing Accessibility Guidelines of 35 housing complexes, accessibility guidelines technical assistance, and enforcement consultation.  2002 to Present</p>	<p><u>Iowa Civil Rights Commission</u>  Contact: George Peters, Investigator  Grimes State Office Building  400 East 14<sup>th</sup> Street  Des Moines, IA  Phone: (515) 281-8081  <u>Services Provided:</u> On-site structural accessibility surveys and survey reports pertaining to the Fair Housing Accessibility Guidelines, accessibility guidelines technical assistance, and enforcement consultation.  2003 to Present</p>
<p><u>Cedar Rapids Human Rights Commission</u>  City of Cedar Rapids  50 2<sup>nd</sup> Avenue Bridge  Cedar Rapids, Iowa 52401-1256  Contact: Michelle McMurray, Investigator  <u>Services Provided:</u> On-site structural accessibility surveys and survey reports pertaining to the Fair Housing Accessibility Guidelines of 65 housing complexes, accessibility guidelines technical assistance, and enforcement consultation.  2003 to Present</p>	<p><u>Cameron Greens Apartments</u>  Cameron, Missouri  <u>Services Provided:</u> Survey entirety of housing complex for the purpose of identifying architectural and program barriers in reference to the Americans with Disabilities Act, the Fair Housing Amendments Act, and Section 504 of the Rehabilitation Act.  2000</p>
<p><u>Cameron Manor Apartments</u>  Cameron, Missouri  <u>Services Provided:</u> Survey entirety of housing complex for the purpose of identifying architectural and program barriers in reference to the Americans with Disabilities Act, the Fair Housing Amendments Act, and Section 504 of the Rehabilitation Act.  2000</p>	<p><u>Creighton Senior Housing</u>  Creighton, Missouri  <u>Services Provided:</u> Survey entirety of housing complex for the purpose of identifying architectural and program barriers in reference to the Americans with Disabilities Act, the Fair Housing Amendments Act, and Section 504 of the Rehabilitation Act.  2000</p>

Professional Consulting Experience - Housing (Continued)

<p><u>Jonesberg Properties</u> Jonesberg, Missouri <u>Services Provided:</u> Survey entirety of housing complex for the purpose of identifying architectural and program barriers in reference to the Americans with Disabilities Act, the Fair Housing Amendments Act, and Section 504 of the Rehabilitation Act. 2000</p>	<p><u>Keystar Osceola Apartments</u> Osceola, Missouri <u>Services Provided:</u> Survey entirety of housing complex for the purpose of identifying architectural and program barriers in reference to the Americans with Disabilities Act, the Fair Housing Amendments Act, and Section 504 of the Rehabilitation Act. 2000</p>
<p><u>Lebanon Properties I</u> Lebanon, Missouri <u>Services Provided:</u> Survey entirety of housing complex for the purpose of identifying architectural and program barriers in reference to the Americans with Disabilities Act, the Fair Housing Amendments Act, and Section 504 of the Rehabilitation Act. 2000</p>	<p><u>Lebanon Properties II</u> Lebanon, Missouri <u>Services Provided:</u> Survey entirety of housing complex for the purpose of identifying architectural and program barriers in reference to the Americans with Disabilities Act, the Fair Housing Amendments Act, and Section 504 of the Rehabilitation Act. 2000</p>
<p><u>Lebanon Properties III</u> Lebanon, Missouri <u>Services Provided:</u> Survey entirety of housing complex for the purpose of identifying architectural and program barriers in reference to the Americans with Disabilities Act, the Fair Housing Amendments Act, and Section 504 of the Rehabilitation Act. 2000</p>	<p><u>Lehon Court</u> Warrensburg, Missouri <u>Services Provided:</u> Survey entirety of housing complex for the purpose of identifying architectural and program barriers in reference to the Americans with Disabilities Act, the Fair Housing Amendments Act, and Section 504 of the Rehabilitation Act. 2000</p>
<p><u>Mary's Home Housing</u> Mary's Home, Missouri <u>Services Provided:</u> Survey entirety of housing complex for the purpose of identifying architectural and program barriers in reference to the Americans with Disabilities Act, the Fair Housing Amendments Act, and Section 504 of the Rehabilitation Act. 2000</p>	<p><u>Montgomery City Properties</u> Montgomery City, Missouri <u>Services Provided:</u> Survey entirety of housing complex for the purpose of identifying architectural and program barriers in reference to the Americans with Disabilities Act, the Fair Housing Amendments Act, and Section 504 of the Rehabilitation Act. 2000</p>
<p><u>Nevada Estates</u> Nevada, Missouri <u>Services Provided:</u> Survey entirety of housing complex for the purpose of identifying architectural and program barriers in reference to the Americans with Disabilities Act, the Fair Housing Amendments Act, and Section 504 of the Rehabilitation Act. 2000</p>	<p><u>Smithville Properties (Elderly)</u> Smithville, Missouri <u>Services Provided:</u> Survey entirety of housing complex for the purpose of identifying architectural and program barriers in reference to the Americans with Disabilities Act, the Fair Housing Amendments Act, and Section 504 of the Rehabilitation Act. 2000</p>

The organizations listed above are only a sampling of recent consultation activities. Mr. Johnson has consulted with hundreds of public and private organizations over the past 15 years regarding differing types of disability-related issues and disability-related laws, and performed hundreds of structural accessibility surveys of buildings and facilities.

### Speaking Engagements

Mr. Johnson has provided training to more than 10,000 individuals on the technical provisions of the Americans with Disabilities Act and other disability-laws and legislation in the form of keynote speaker, lectures, and workshops across the Nation with a focus on the central U.S. All organizations and associations that trainings have been provided to are too numerous to list; however a small portion of the entities having received training are listed below.

U.S. Department of Education, Office for Civil Rights, Investigators Training  
 State of Missouri, Missouri Commission on Human Rights, Investigators Training  
 Missouri Protection and Advocacy Services, Investigators Training  
 State of Missouri, Department of Mental Health, Annual Conference  
 International Facility Management Association  
 Iowa Architectural Institute of America & Interior Design Annual Conference  
 Iowa Building Code Officials  
 Association of Kansas Building Code Officials  
 State of Missouri, Governor's Council on Disability Board Training  
 Disability & Business Technical Assistance Centers  
 Missouri Municipal League Annual Conference – 1999, 2001, 2003  
 National Multiple Sclerosis Society  
 Recreation Council of Greater St. Louis  
 Regional ADA Symposium Conference  
 National ADA Symposium  
 Iowa League of Cities  
 Missouri Library Association  
 Missouri Job Service Employer Committee  
 Missouri Department of Elementary and Secondary Education Annual Conf. – 1999, 2001, 2003  
 United States General Services Administration  
 Kansas City Research College of Nursing  
 City of Springfield, Missouri Employees  
 Missouri Department of Mental Health Training Institute  
 Universal Design in Higher Education 2001 Annual Conference  
 Johnson County Iowa ADA Symposium  
 Missouri Assistive Technology Annual Conference  
 Missouri Bar Association, Advanced Guardian Ad Litem Program  
 Society of Government Meeting Professionals 2001 & 2003 Annual Education Conf.  
 City of Prairie Village Police Investigation Personnel  
 U.S. Department of Agriculture – Rural Development  
 American Society of Plumbing Engineers  
 City of Dubuque Iowa, Intensive Building Inspector's Training  
 U.S. Department of Housing and Urban Development  
 Association of Kansas Building Code Officials Annual Conference  
 Missouri School Plant Managers Association, 1998, 2000  
 International Federal Management Association  
 Institute for Inclusive Education Annual Conference  
 HR Management Association of Salina, Kansas  
 Stanley Architects, Muscatine Iowa  
 Iowa League of Cities Annual Conference  
 Iowa Human Rights Commission Annual Conference  
 Missouri Association of Risk Managers  
 University of Iowa School of Law  
 National Council on Independent Living  
 St. Louis Human Resource Management Association

### Speaking Engagements (Continued)

Midwest Labor Management Association  
 Federal Department of Labor, General Services Administration  
 5<sup>th</sup> Annual Conf. of the International Association of Human Rights Agencies  
 Kansas Architectural Institute of America  
 Greater Kansas City HRMA Conference  
 CUPA-HR Midwest Conference  
 Court Appointed Special Advocates Conference  
 U.S. General Services Administration Unity Day Conference  
 Iowa League of Cities  
 Missouri Library Association, Advanced Library Skills Training  
 U.S. Department of Agriculture, Missouri Rural Rental Housing Conference  
 Springfield Missouri Annual Fair Housing Conference  
 North Kansas City Hospital Personnel Training  
 Disability Resource Association Annual Conference  
 ADA Coordinators Training Project, 12 Cities, Midwest  
 Jefferson County, Commission for the Handicapped Annual Conference  
 Access II Annual ADA Conference  
 Cooperating School Districts of Missouri, Institute for Inclusive Education  
 Pettis County Missouri, Center for Human Services, Annual Intensive Staff Training  
 Missouri Assistive Technology Project, Disability Rights Conference, Policy Intensive Session  
 Independent Living Centers of Northeast Kansas,  
 SEMO Alliance for Disability Independence, Disability Rights Conference  
 Services for Independence Americans with Disabilities Act Training  
 Independent Living Resource Center Advocacy Training  
 MER Independent Living Center Housing Conference  
 Paraquod Advocacy Training  
 Rural Independent Living Center Disability Civil Rights Training  
 The Whole Person ADA Technical Training  
 Southwest Center for Independent Living Annual Conference  
 State of Missouri, Parks and Recreation Council Annual Conference  
 Missouri Disability Rights Conference  
 National Multiple Sclerosis Society Annual Conference  
 Nebraska Muscular Dystrophy Association Annual Conference  
 State of Missouri, Missouri Council for Rural Housing Development Annual Conference  
 State of Missouri, Division of Comprehensive Psychiatric Services Training Institute

### Published Documents

Mr. Johnson has written numerous articles and documents including one published book titled "Disability Management in the Workplace – Recruitment" and another book to be published this year titled "Disability-Related Employment Laws." These works are published by RPM Press, PO Box 31483, Tucson, AZ 85751.

### Technical ADA Related Education

Mr. Johnson has received on-going education on the Americans with Disabilities Act and related Laws on a regular basis for the past fifteen years. The majority of the education he has received is not typically provided by educational institutions, such as state universities, where a degree or license is an end result. This type of formal education on the technicalities of the Americans with

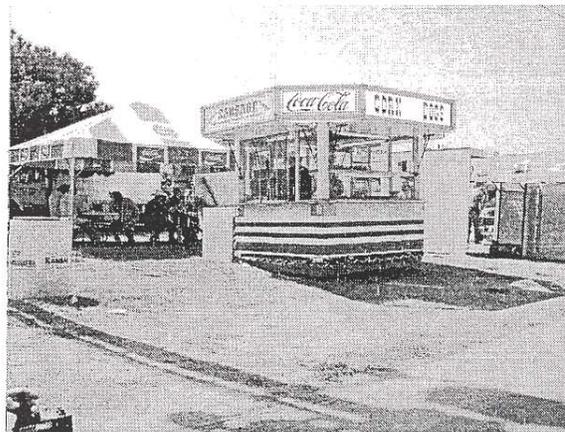
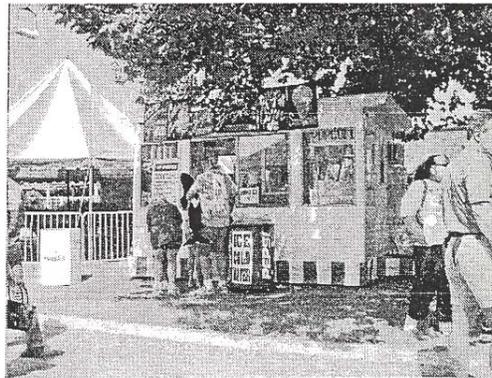
Disabilities Act and related laws is not available. Typically, Mr. Johnson is one of the few individuals in the central U.S. who provides such formalized classes, workshops and instruction on the ADA and related laws for state universities, community colleges, and other educational entities. Mr. Johnson's education has been partially obtained via on-going work shops, seminars, and intensive week-long subject specific trainings provided by federal enforcement agencies, of which, some are listed below. Mr. Johnson maintains regular contact with these and other federal or state enforcement agencies and organizations that produce technical materials or information pertaining to disability-rights laws. He maintains this contact to help ensure the provision of timely and accurate consultative information. Ongoing education and liaison contacts are maintained with the agencies listed below:

- Disability Rights Education and Defense Fund, Washington, DC
- U.S. Department of Justice, Civil Rights Division, Washington, DC
- American Bar Association, Washington, DC
- U.S. Equal Employment Opportunity Commission, Washington, DC
- U.S. Office of Housing and Urban Development, Kansas City, MO
- U.S. Access Board, Washington, DC
- U.S. Department of Education, Office of Civil Rights, Kansas City, MO
- U.S. Department of Education, Disability & Business Technical Asst. Ctrs.
- U.S. Department of Transportation, Office of Civil Rights, Washington, DC
- Missouri & Kansas Advocacy and Protective Services
- Missouri Commission on Human Rights
- U.S. Department of Labor, Washington DC
- President's Committee on Employment of People with Disabilities

### **Community Activities**

- Missouri School Plant Managers Association
  - Member – 2003 to Present
- Human Resource Association of Central Missouri
  - Member – 1998 to Present
- Independent Living Resource Center
  - Board of Directors President – 1995 to 2001
- Independent Living Resource Center
  - Board of Directors Past President – 2001 to Present
- Missouri Disability Rights Coalition
  - Vice President – 1993 to 1994
- Regional Advisory Council on comprehensive Psychiatric Services
  - Board Member – 1994 to Present
- Mid-MO Barrier Free Housing for the Physically Handicapped
  - Board Member – 1993 to 1995

Additional photographs of vendors along 20<sup>th</sup> just inside the gate. These are areas not mentioned or evaluated in the report.



## Formal Education

Bachelor of Science, Southwest Missouri State University – Cum Laude

Psychology (Major)

HR Management (Minor)

Phi Eta Sigma Honors Society, Freshman, Sophomore, and Junior

Department of Psychology faculty, Recognition Award, Excellence in Psychology

Golden Key National Honor Society, Scholastic Achievement

National Honor Society of Psychology, Psi Chi Chapter

# **Response to Public Comments**

## **Narrative**

This narrative demonstrates how the Kansas State Fair and the State of Kansas are evaluating the comments made at two public meetings over the State Fair Self-Evaluation and Transition Plan.

The meetings were held February 17, 2004 in Hutchinson, Kansas and on February 18, 2004, in Topeka, Kansas. Around 30 members of the public submitted written or oral comments or both. Written comments that were received have been included as part of this report. Views expressed by those individuals are their point of view and do not necessarily reflect the views of the State of Kansas or the Kansas State Fair.

The Pittsburgh, Pennsylvania firm of ADA, Inc. which was hired by the State of Kansas to conduct the site review and self-evaluation, also participated in the meetings. All the comments were considered and as discussed below the State intends to respond to the comments received.

Pride of Kansas was being renovated at the time of the compliance survey and ADA, Inc. did not review either the construction or the renovation plans.. The Dairy Judging Building and the Birthing Center were torn down to build the new Prairie Pavilion. Prairie Pavilion plans were not reviewed by ADA, Inc.

Unless otherwise described the State will implement the compliance recommendations made by ADA Inc.

## **Parking**

Comments were provided by the public which indicated a desire for three options to be considered in implementing the transition plan. First, the issue was raised that the Kansas State Fair should exceed the minimum parking spaces established under the Americans with Disabilities Act Accessibility Guidelines (ADAAG) because of the fact that the State of Kansas has around 250,000 disabled parking placards, or license plates, which represents 16% of the overall population. In this case, ADAAG only requires a 2% ratio. The comment suggested that accessible parking should be closer to this 16% ratio or at least an increase above the minimum required.

Second, comment was received that the Fair should design universal parking spaces: this means that every space is designed the same, making every space van accessible. Third, comment was received that the Fair must strictly enforce the parking laws because non-disabled people were parking illegally in reserved/designated accessible parking spaces.

The state must consider its programs, services and activities to see that they are accessible to and usable by persons with disabilities when viewed in its entirety.

As to utilizing a direct percentage ratio based on Kansas state placards, the Kansas State Fair disagrees with such a ratio. Such a ratio or correlation would defeat the purpose of evaluating

the individual program as the law requires. The law provides that a program may require additional increased accessibility based on the need of that program. ADAAG makes clear that the overall number of parking placards has no direct bearing on how many spaces are actually needed. Moreover, there was no comment made that a person had been denied parking at the Fair grounds because the minimum number was not sufficient. If the need for additional parking can be demonstrated the State would then evaluate and consider what programmatic changes may be required to meet the increased need at the Fair grounds.

As to the second suggestion that all accessible parking should be designed in a universal manner, there has also been no showing that the parking design, which is compliant, needs to be changed. The state would be open to evaluating this option after considering further factors such as what is the need now? How much would the restriping and redesign work cost? And how much time would it take? The State feels that it does not need to change its compliant design of the parking at this time. However, should the program need require it, then reasonable modification may be made to meet the program need.

As to the third and final suggestion to have the Fair enforce existing parking requirements more aggressively and to ensure that parking spaces are used as intended, the State will instruct appropriate personnel based at the Fair grounds during the State Fair to vigorously enforce the law.

### **Major Renovations Scheduled for 2005 - 2007**

There were no major comments received concerning projects which the Fair has put into this plan. The transition plan lists projects with certain requirements. These requirements will be and are adopted in full as presented in 2005 through 2007.

### **Grandstand**

The Fair grandstand has been, and continues to be, the major issue which was raised at both public meetings. Several comments were raised for the State and Fair to consider:

- Some members of the public indicated that they wanted to sit wherever they want. It appeared that this suggestion would require that all grandstand seats be made accessible.
- Others wanted family style seating so that the family could sit together. It also appeared that this suggestion would require major renovation not required under ADAAG.
- Other members of the public indicated that they wanted some accessible seats dispersed in the upper level of the grandstand. As stated below, this suggestion appeared to require application of ADAAG standards for new construction and not those for the long existing grandstand structure.
- There was a request made to consider a means of effective communication for the hard of hearing during Fair events at the facility.

- Finally, there were comments which talked about ADA, Inc.'s approach and findings on the grandstand.

In light of public comments, the State has reevaluated the following items to determine what should occur with the grandstand. While placing the ramps at both ends of the seating increases the travel distance, relocating them to the center would place the required hand rails within the line of sight for the disabled seating. The fair will consider locating restrooms or vending facilities at the sides of the grandstand where the ramps end to reduce the travel distance. Any conflict between patrons walking through the disabled seating section to the stairs at the front of the grandstand will be controlled by ushers stationed at each stairway connecting the existing seating to the addition.

Second, as to universal accessible seating for all 10,000 seats, the Kansas State Fair strongly disagrees that such a measure is required under law or technically and financially feasible.

Third, as to family style seating, while not required by law, may be technically feasible in the renovated first level. The Fair will consider making seating in the first row of the existing seating immediately behind two or three sections of the wheelchair seating available for up to three additional companions seats. This would allow patrons in wheelchairs to choose seating in the second row of the wheelchair seating if they need more than one companion seat. The companion seating will be made of individual seats as opposed to bench type seating so they can be removed and then fixed again to provide maximum flexibility in providing additional wheelchair or companion seating within the first two rows of the facility. This will allow the Fair to annually review and revise its companion seating policy.

Fourth, as to the issue of vertical dispersion, we disagree that the law or ADAAG requires such for an existing structure. Also, this cannot be accomplished for several reasons. First, the safety issues raised are numerous. Dispersion would require widening the cross-aisle, modifying the emergency ramps, and providing appropriate fire protection, and egress which is extremely difficult. The public was worried about safety issues on the first floor and would face similar but magnified issues on the upper level. Placing accessible seating at the cross-aisle would impair the sightlines for every row above the expanded cross-aisle, which is approximately 4,300 seats. The State must not only provide accessibility to the disabled but also ensure that the rest of the public can see the event. This is what is meant when viewing the accessibility "in its entirety" or any program, service or activity.

Because the Grandstand is over 75 years old and may have a limited remaining useful life, if dispersion is required there will be almost no choice but to demolish and rebuild it. The sightlines cannot be remedied without major structural modifications to every row behind the upper accessible seating. Fixing all of the issues such as ramps, elevators, etc. to provide dispersed seating will not solve the sightline issue. The ADA is not intended to force entities to demolish existing structures. Instead, Title II requires public sector entities to do everything possible to attain accessibility within the limitations imposed by the existing structure. The plans for remodeling the Grandstand accomplish this objective.

## **Truncated Domes and Edge Protection**

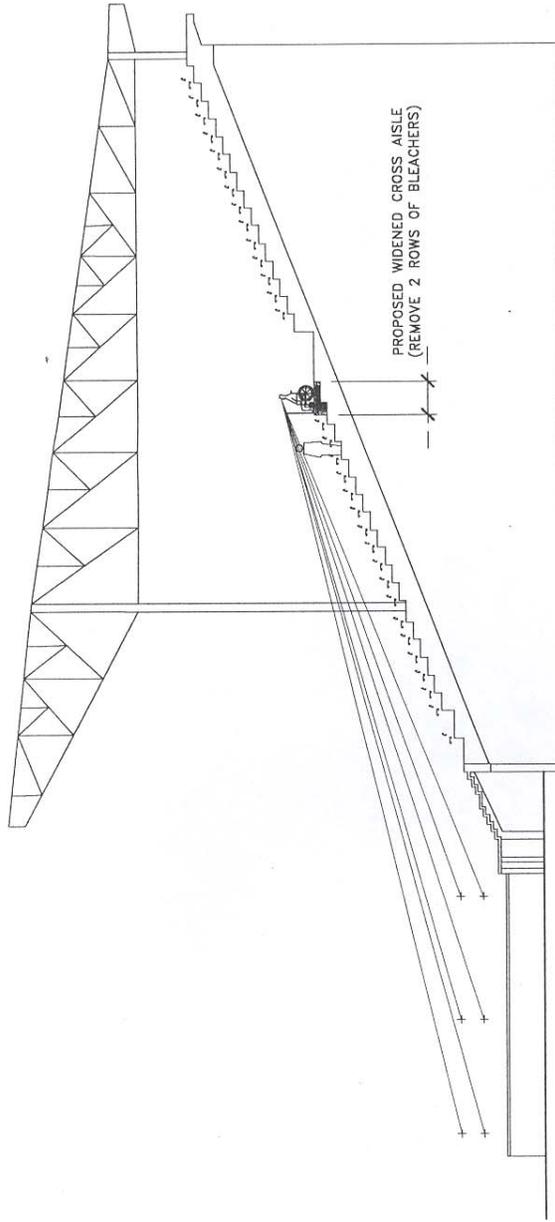
The State has agreed to supply appropriate detectable warnings along the railroad tracks. We were asked to consider extending that to other areas. The State will evaluate other necessary areas where protection of patrons is required.

## **Program Accessibility**

Programs, services and activities such as amusement rides, games, portable vendor areas and other program issues, which can only be evaluated while the fair is in operation at the Fair were also raised. The State agrees and will instruct ADA, Inc. to conduct a separate evaluation of the programs while the Fair is ongoing in September, 2004. Even though there are no enforceable requirements for amusement rides and other programs, we recognize our obligation to at least evaluate them and take reasonable steps to provide accessibility. If a transition plan is required it will follow the steps in this report. The State Fair is modifying the vendor contracts to include ADA compliance. Vendor contract evaluation is currently proceeding. These compliance issues must be reviewed and accepted prior to the contracts being signed. This would ensure that they are attempting to correct errors noted on buildings/functions that are not permanent fixtures or state-owned.

## **Policies, Practices and Procedures**

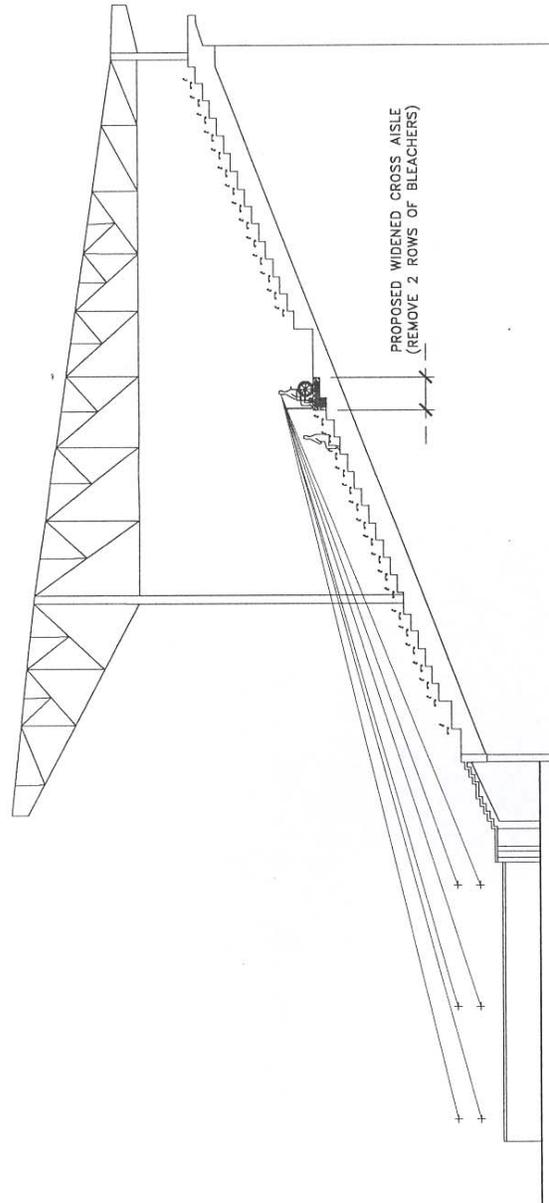
- The State of Kansas “Notice to the Public” was evaluated and updated. This was completed in January, 2004.
- The State statutes, which apply to the Fair, were reviewed and no changes were determined to be required.
- A regulation should be updated to incorporate language recommended by ADA, Inc. K.A.R. 116-2-1
- All policies, practices and procedures will adhere to the ADA or its State counterparts K.S.A. 58.1301 et seq.
- The State Fair website is being updated to continue compliance with ITEC Policy 1210 Accessibility to State Websites.
- Emergency preparedness plans and procedures will continue to be evaluated and updated to ensure the safety of people with disabilities.
- As issues and programs emerge or are modified they will be updated with the template outlines as it is in this report.
- The Office of State ADA Coordinator shall oversee the overall implementation of this plan as required by 28.C.F.R. 35.1510 (d) (4).



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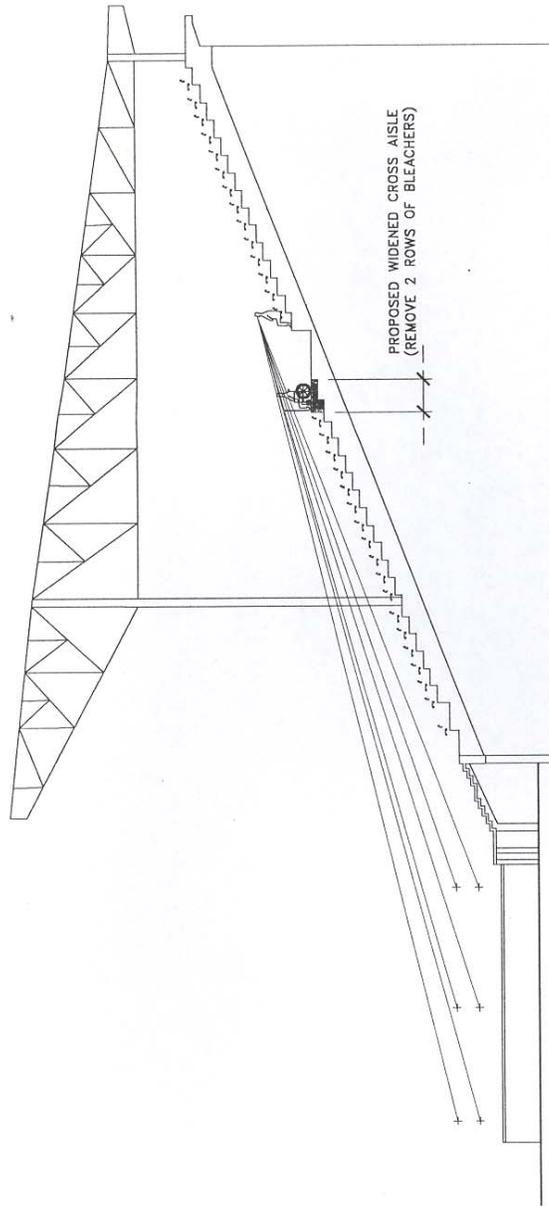
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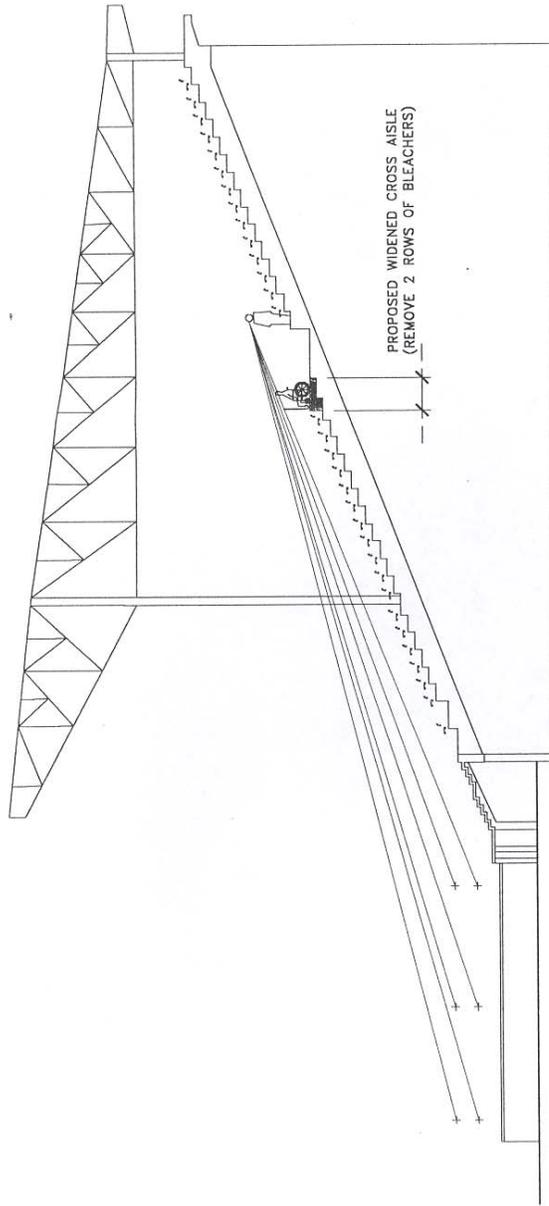
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EMIG and ASSOCIATES  
Architects  
Post Office Box 724  
Phone 316-343-9180  
Emporia, Kansas 66801  
Fax 316-343-9193

THE FAIR GRANDSTANDS STUDY  
HUTCHINSON, KS

SECTION

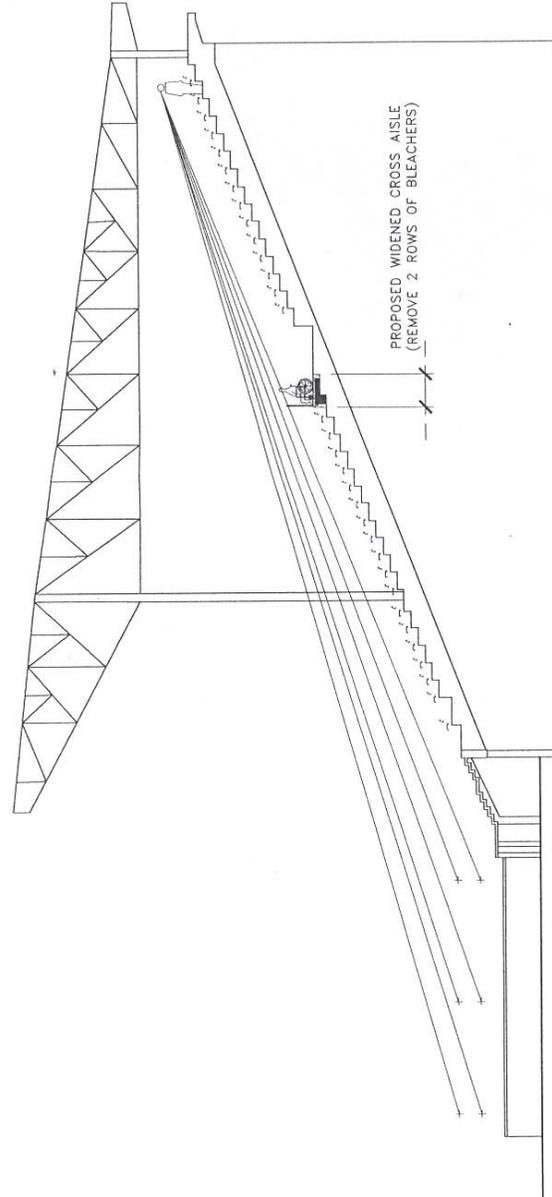
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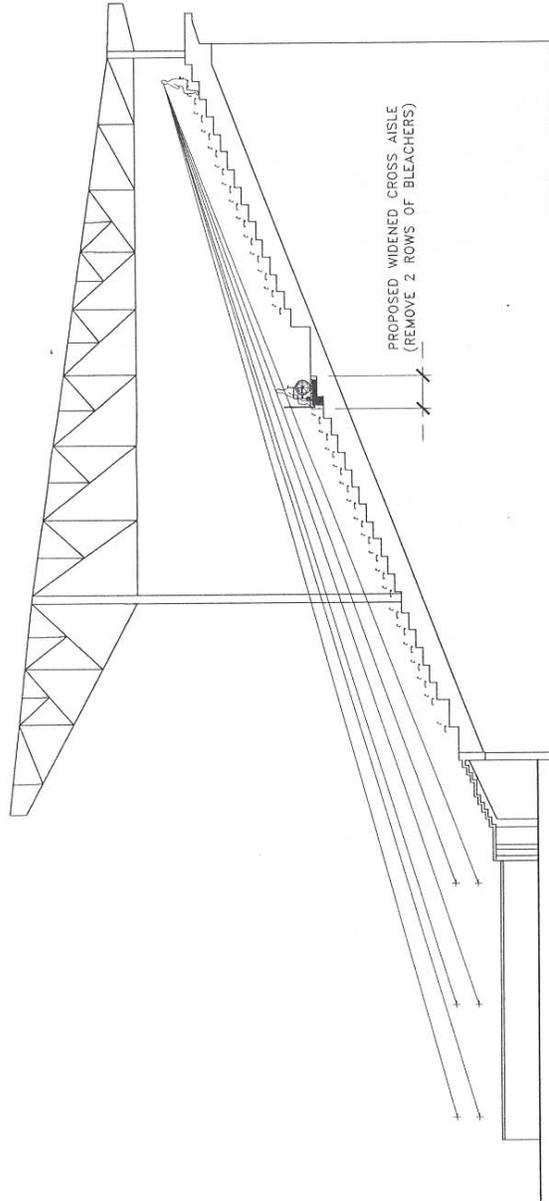
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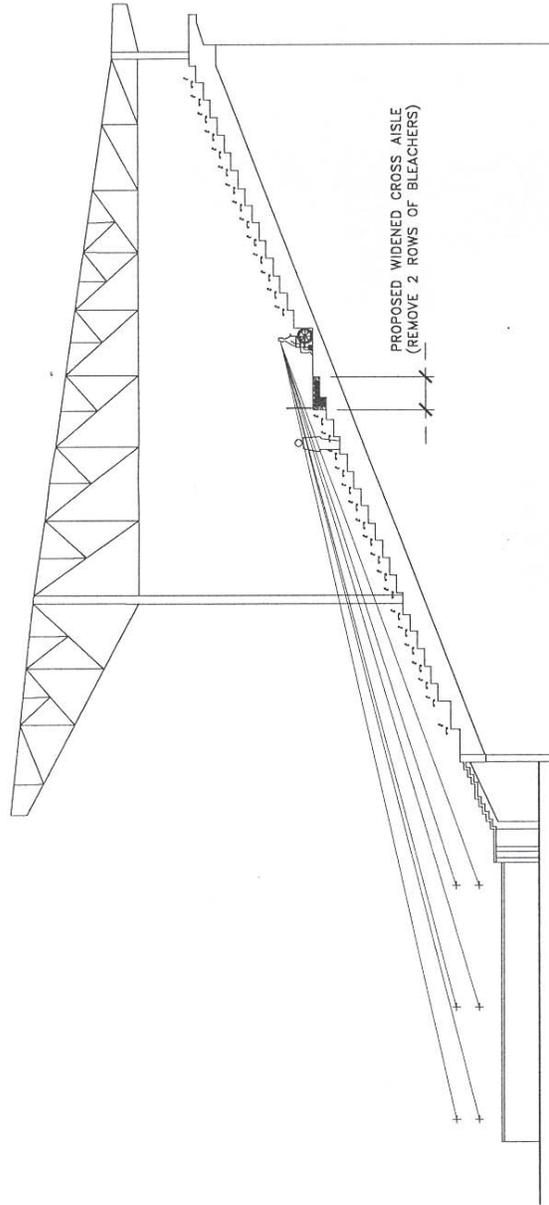
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THE FAIR GRANDSTANDS STUDY  
HUTCHINSON, KS

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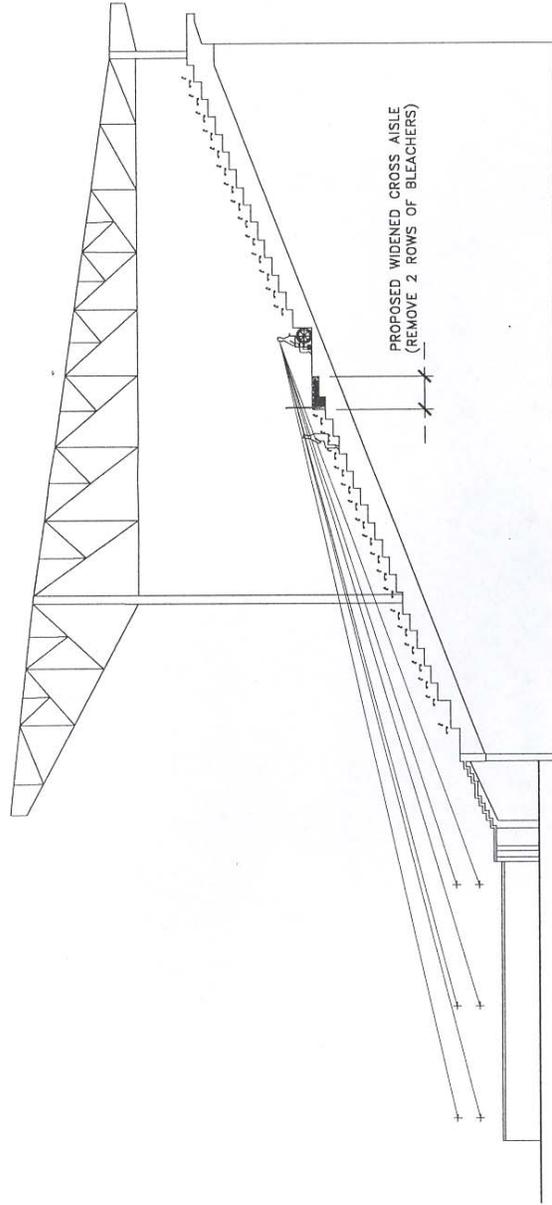
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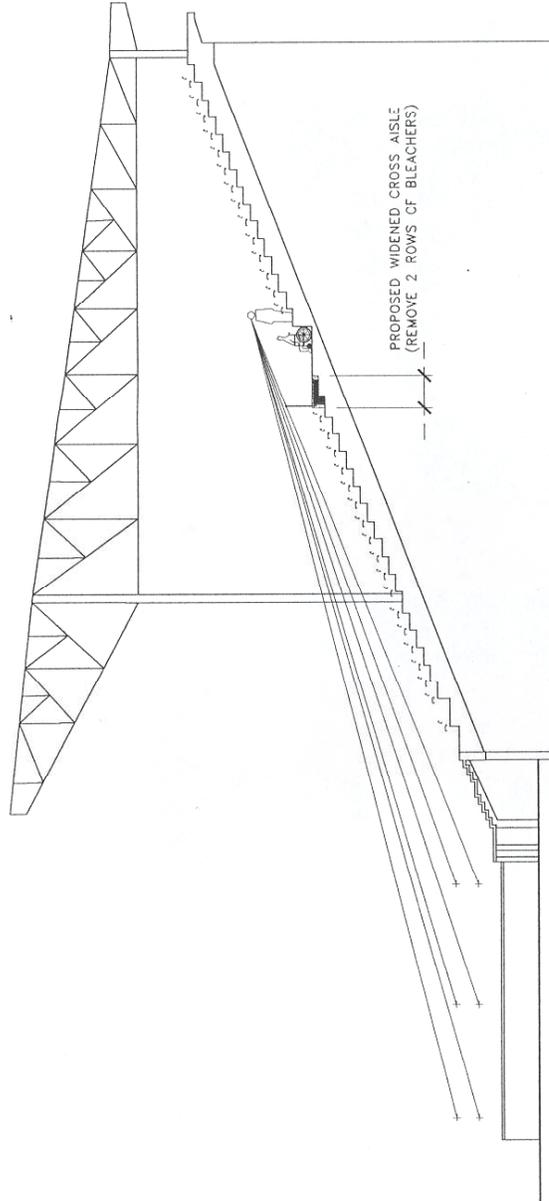
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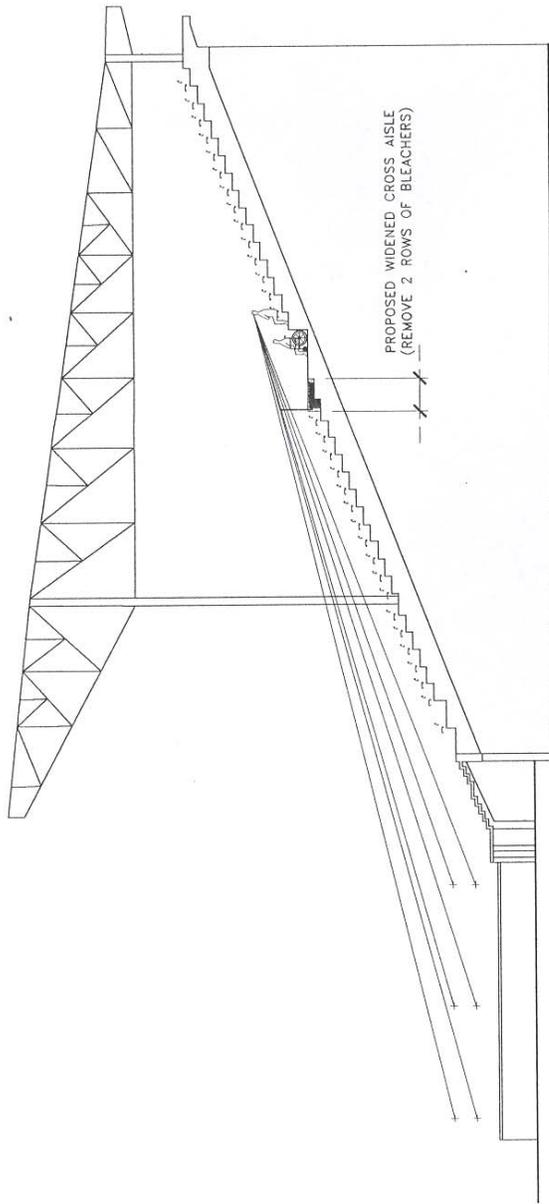
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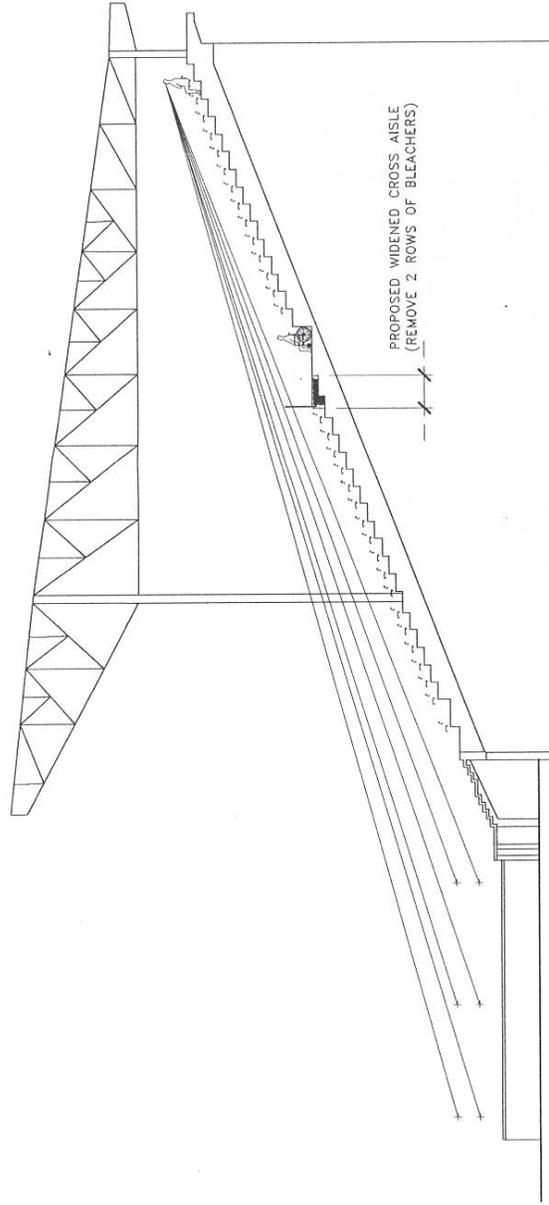
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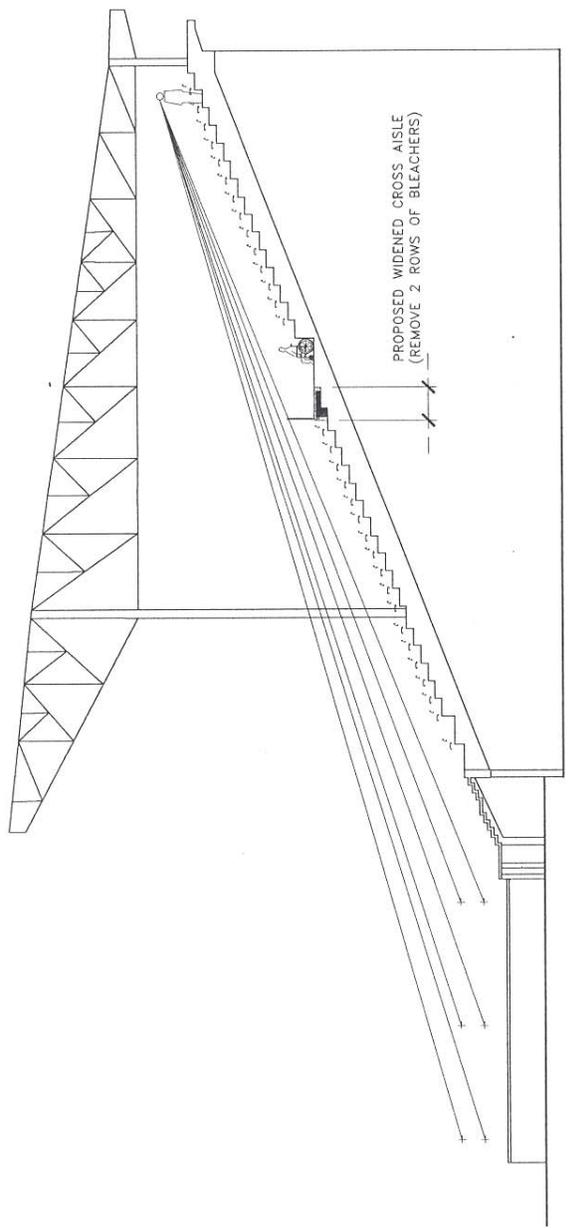
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